

COURT FILE NUMBER **1701-03460**

COURT COURT OF QUEEN'S BENCH OF ALBERTA

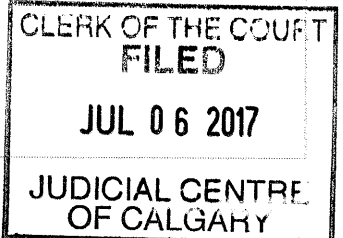
JUDICIAL CENTRE Calgary

PLAINTIFF **ALBERTA ENERGY REGULATOR**

DEFENDANTS **LEXIN RESOURCES LTD., 1051393 B.C. LTD., 0989 RESOURCE PARTNERSHIP, LR PROCESSING LTD. and LR PROCESSING PARTNERSHIP**

DOCUMENT **APPLICATION BY RECEIVER:
APPROVAL OF SALES PROCESS AND
ENGAGEMENT OF SALES ADVISOR**

Clerk's Stamp



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Robyn Gurofsky/Jessica L. Cameron
Borden Ladner Gervais LLP
1900, 520 3rd Ave. S.W.
Calgary, AB T2P 0R3
Telephone: (403) 232-9774/9715
Facsimile: (403) 266-1395
Email: rgurofsky@blg.com/ jcameron@blg.com
File No. 547730-000021

NOTICE TO RESPONDENTS: See Service List, Schedule "A" to this Application

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date July 14, 2017
Time 2:00 p.m.
Where Calgary Courts Centre, 601-5th Street SW, Calgary AB
Before Whom The Honourable Justice K.M. Horner

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. Grant Thornton Limited, in its capacity as the court-appointed receiver (the “**Receiver**”) of Lexin Resources Ltd. (“**Lexin**”), 1051393 B.C. Ltd. (“**105**”), 0989 Resource Partnership (“**0989**”), LR Processing Ltd. (“**LR Ltd.**”) and LR Processing Partnership (“**LR Processing**” and collectively with Lexin, 105, 0989 and LR Ltd. the “**Debtors**”), seeks an Order substantially in the form attached hereto as **Schedule “B”**:
 - (a) Declaring service of this Application good and sufficient, and abridging the time for notice of this Application to the time actually given, if necessary;
 - (b) Approving the Sales Process (the “**Sales Process**”) as described and attached as **Appendix “11”** to the Fourth Report of the Receiver, dated July 6, 2017 (the “**Fourth Report**”);
 - (c) Approving the proposed engagement letter between Sayer Energy Advisors (the “**Sales Advisor**”) and the Receiver dated June 28, 2017 whereby, among other things, the Sales Advisor has agreed to assist the Receiver in carrying out the Sales Process (the “**Engagement Letter**”), and as attached as **Confidential Appendix “8”** to the Fourth Report (“**Confidential Appendix**”);
 - (d) Sealing the Confidential Appendix;
 - (e) Dispensing with the document protocol established with respect to Lexin’s records pursuant to the Document Protocol Order granted April 4, 2017 (the “**DPO**”), and directing that the Receiver shall have full and unfettered access to the Debtors’ Records (as defined in each of the Lexin Receivership Order and Expanded Receivership Order) subject only to an acknowledgement that Lexin reserves the right to assert privilege over Records at a future date;
 - (f) Increasing the Receiver’s Borrowings Charge from \$1,200,000 to \$2,100,000;
 - (g) Ratifying and approving the Receiver’s activities set out in the Receiver’s Third Report dated June 9, 2017 and the Receiver’s Fourth Report; and
 - (h) Approving and ratifying the Receiver’s Receipts and Disbursements for the period March 20, 2017 to July 5, 2017, including the Receiver’s fees and disbursements and the fees and disbursements incurred by its legal counsel, without the necessity of a formal passing of their accounts.
2. Such further and other relief as Counsel may advise and this Honourable Court permit.

Grounds for making this application:

Background

3. On March 20, 2017, this Court granted the Alberta Energy Regulator's ("**AER**") application to petition Lexin into receivership (the "**Lexin Receivership Order**"). Subsequently, on June 13, 2017, this Court granted the Receiver's application to petition 105, 0989, LR Ltd. and LR Processing into receivership pursuant to a consent receivership order (the "**Expanded Receivership Order**" and together with the Lexin Receivership Order the "**Receivership Orders**"). All capitalized terms used but not otherwise defined herein shall have the meaning given to them in the Expanded Receivership Order.
4. The Lexin Receivership Order and the Expanded Receivership Order appointed the Receiver over all of the Debtors' Property, but provided that, while the Receiver may take possession and exercise control over the Property, the Receiver is not required to take possession or exercise physical control over any of the Debtors' oil or gas wells, pipelines, facilities or sites regulated by the AER (the "**Sites and Abandoned Sites**").
5. The Sites for which the Debtors were the sole operator and owner are now under the care and custody of the Orphan Well Association; however, Sites operated by the Debtors (or any one of them) in which there are working interest participants ("**WIPs**") have been placed under the care and custody of those WIPs.
6. While the Receiver cannot take physical possession of the Sites and Abandoned Sites, the Receiver is authorized to conduct a sales and marketing process with respect to all of the Debtors' Property.

Sales Process

7. Pursuant to each of the Lexin Receivership Order and the Expanded Receivership Order, the Receiver is authorized to sell, convey, transfer lease or assign the Debtors' property.
8. As more particularly set out in the Receiver's Third Report dated June 9, 2017, the Debtors' oil and gas assets are inextricably linked with one another. As such, the Receiver's proposed Sales Process contemplates inclusion of all of the Debtors' assets in one comprehensive process.
9. The Receiver believes that the Sales Process, as proposed, is the most commercially reasonable manner in which to maximize the value to all of the Debtors' stakeholders.

10. As a result, the Receiver, with the support of the AER, is seeking approval of the Sales Process.

Engagement of a Sales Advisor

11. Each of the Lexin Receivership Order and the Expanded Receivership Order permits the Receiver to engage consultants and such other persons as are necessary to assist the Receiver with the exercise of its powers and duties, including those conferred by receivership orders.
12. The Receiver believes that the appointment of a formal sales advisor would be appropriate in the circumstances and add value to any marketing process undertaken in the within proceedings.
13. As a result, the Receiver proposes to retain the Sales Advisor pursuant to the terms of the Engagement Letter to assist the Receiver in carrying out the contemplated Sales Process. The Receiver anticipates that the Sales Advisor will add value and lend efficiencies to the Sales Process.
14. It is fair and reasonable and in the best interests of the Debtors' stakeholders that the Engagement Letter be approved in order to carry out the terms of the Sales Process.
15. As a result, the Receiver, with the support of the AER, is seeking the approval of the Engagement Letter.
16. The Engagement Letter is the result of a bidding process undertaken by the Receiver with respect to the engagement of a financial advisor. The bids submitted in the bidding process, together with the terms of the Engagement Letter, contain commercially sensitive information. A sealing order is the least restrictive means to prevent the dissemination of this information.

Dispensing with the Document Protocol

17. At the commencement of the Receivership proceedings, Lexin maintained that it may have privilege claims over its Records (as defined in the Lexin Receivership Order). As a result of these privilege claims, together with the overall state of the records, the Receiver was unable to immediately access Lexin's Records.
18. In order to access Lexin's Records, the Receiver and Lexin agreed to a document protocol which divided the Records into two categories: Paper Records and Electronic Records. With respect to the Paper Records, there were two further subcategories as follows:

- (a) Lexin Emergency Records (“**Emergency Records**”) – these are records identified by the Receiver as being immediately releasable to the Orphan Well Association (“**OWA**”) for public safety purposes regarding their use in the care and custody of the Sites following a process whereby Groia & Company are notified of the catalogued list of such documents by the Receiver.
 - (b) Reviewable Paper Records (“**Paper Records**”) – these are records which Groia & Company may review for privilege claims prior to review by the Receiver.
19. With one exception, Groia & Company have reviewed all of the Paper Records requested. There remains one final batch of Paper Records for which an indexed list has been provided. The Receiver had agreed to toll the period in which Groia & Company had to notify the Receiver if it wishes to review the Paper Records listed on the index while the AER and Lexin entered into discussions to resolve certain issues between them. The Receiver understands that these discussions have completed and as such, is proceeding with Groia & Company to conclude the final review of the Paper Records.
 20. The Receiver has provided Groia & Company with indexes for all of the Emergency Records. As such all of the Emergency Records are releasable to the OWA.
 21. A significant number of Lexin’s Records are contained on a number of servers, which the AER had previously recovered from a landlord seizure. Due to the poor condition of the servers, a two-stage process was necessary to recover and review these documents. First the documents needed to be imaged by the independent Database Management Specialist (“**DMS**”) (“**Phase 1**”). Second, the DMS will utilize search terms to review the records for any potentially privileged records (“**Phase 2**”).
 22. Phase 1 of the electronic review is now complete and the DMS is awaiting the search criteria from Groia & Company to commence Phase 2.
 23. While 105, 0989, LR Ltd. and LR Processing are not subject to the DPO and no privilege claims have been asserted on their behalf, many of these entities’ records are stored on Lexin’s electronic servers and databases, the Receiver’s access to which is restricted until Lexin provides the search terms.
 24. When the Receiver agreed to the terms of the DPO, it did so in part to address the privilege claims asserted by Lexin but also due to the fact that the AER needed to ensure proper chain of custody of the Records due to its ongoing investigations into Lexin. The Receiver understands that those investigations have concluded and the same chain of custody issues are no longer in issue.

25. To date, the Receiver's compliance with the DPO has cost the Receivership estate in excess of \$450,000. The Receiver has been provided with estimates that it will cost a further \$100,000 to \$500,000 in order to continue the DPO with respect to the Electronic Records.
26. The cost and time associated with the Receiver's compliance of the DPO has been much greater than the Receiver originally understood, due in large part to the extent of disarray of the Records, the poor condition of the servers and other electronic medium and identification of additional servers and electronic medium through the process.
27. The Receiver believes that continued compliance with the DPO with respect to the Electronic Records will cause inordinate delays in the sales process, as well as be a further significant and unnecessary expense to the estate. Further, the Receiver requires immediate access to the Electronic Records in order for it to be able to conduct a full and robust sales process within the approximate timelines requested by interested stakeholders, including the AER.
28. The Receiver proposes that the DPO be dispensed with and that the Receiver be allowed full and unfettered access to all of the Debtors' Records, including Lexin's Records, subject to any reservation of rights by Lexin with respect to privilege.
29. The Receiver believes that this is the most cost-effective and efficient means to move towards implementing a full and robust sales process for the Debtors' assets.

Increase to Receiver's Borrowings Charge

30. Pursuant to paragraph 22 of the Lexin Receivership Order, as amended by the Order of this Court dated May 8, 2017, and paragraph 24 of the Expanded Receivership Order, the Receiver is authorized to borrow up to \$1,200,000 for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by the Receivership Orders, which borrowings are secured pursuant to the Receiver's Borrowings Charge.
31. The Receiver has issued Receiver's Certificates totalling \$1,110,000 to the lender, the AER, which is \$90,000 under the maximum borrowing level presently permitted by the Receivership Orders. The actual receipts and disbursements ("R&D") for the Lexin estate as at June 27, 2017 are \$1,251,432 and \$957,129 respectively.

32. The Receiver's projected R&D for the estate through to September 30, 2017, inclusive of the actual R&D to date but excluding funds held in trust, are \$2,151,082 and \$2,137,560 respectively. The R&D is comprised of, but not limited to, the following estimated expenditures:
- (a) Receiver and legal counsel fees estimated at \$1,150,000 (to date the majority of these relate to addressing immediate environmental and safety issues, the DPO, as well as extracting information pertaining to various related party transfers);
 - (b) DPO related costs – hard copy records transportation, archiving and indexing costs, electronic records data imaging and searching costs necessitated by the requirements of the DPO estimated at \$450,000, not including future costs if the DPO is not dispensed with;
 - (c) Utilities – electricity, emergency response line and line-locate costs for accounts that have been placed in the Receiver's name, estimated at \$240,000;
 - (d) Software licensing and consulting fees, server set-up and maintenance, sales advisor, insurance and interest expenses, estimated at \$200,000; and
 - (e) Contractor (land and accounting costs) estimated at \$110,000.
33. While the Receiver does not have care and custody of the Sites, the R&D demonstrates that there are significant costs associated with the recovery of Records and compliance with the DPO, together with the anticipated sales process, utilities and related costs, that support the request for an increase to the Receiver's Borrowings and related charge.
34. As noted above, the Receiver's Borrowings Charge is almost exhausted. As a result, the Receiver will require a \$900,000 increase in its borrowings powers from \$1,200,000 to \$2,100,000.

Material or evidence to be relied on:

35. The Fourth Report of the Receiver, dated July 6, 2017.
36. The pleadings and Receiver's Reports previously filed in these proceedings.
37. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable rules:

38. *Alberta Rules of Court*, AR 124/2010, and in particular Rules 1.3, 3.75, 6.3, 6.4, 11.27, 11.29 and 13.5.
39. *Bankruptcy and Insolvency General Rules*, and in particular Rules 3, 6 and 11.

40. Such further and other rules as Counsel may advise and this Honourable Court permit.

Applicable Acts and regulations:

41. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and in particular Part XI thereof.
42. Such further and other acts and regulations as Counsel may advise and this Honourable Court permit.

Any irregularity complained of or objection relied on:

43. None.

How the application is proposed to be heard or considered:

44. In person before the Honourable Justice K.M. Horner with some or all of the parties' present.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule “A”

COURT FILE NUMBER	1701-03460
COURT	COURT OF QUEEN’S BENCH OF ALBERTA
JUDICIAL CENTRE	Calgary
APPLICANT	ALBERTA ENERGY REGULATOR
RESPONDENT	LEXIN RESOURCES LTD.
DOCUMENT	SERVICE LIST

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Robyn Gurofsky/Jessica L. Cameron Borden Ladner Gervais LLP 1900, 520 3 rd Ave. S.W. Calgary, AB T2P 0R3 Telephone: (403) 232-9774/9715 Facsimile: (403) 266-1395 Email: rgurofsky@blg.com/jcameron@blg.com File No. 547730/000021
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Summit Acceptance Corp. 4620 Blackfoot Trail SE Calgary AB T2G 4G2	
MFC Energy Finance Inc. 1860 - 400 Burrard Street Vancouver BC V6C 3A6	
Marquinn Industries Ltd. 7115 Sparrow Drive Leduc AB T9E 7L1	
Baker Hughes Canada Company c/o DLA Piper (Canada) LLP 1000-250 2 Street SW Calgary AB T2P 0C1	
Her Majesty the Queen in Right of Alberta c/o Service Alberta Crown Debt Collections 8 th Floor John E. Brownlee Building Edmonton AB T5J 3W7	
Municipal District of Ranchlands No. 66 PO Box 1060 Nanton AB T0L 1R0	
Enerflex Ltd. 10121 Barlow Trail NE Calgary AB T3J 3C6	
Municipal District of Willow Creek No. 26 26 Highway 520 W Claresholm AB T0L 0T0	
AltaGas Processing Partnership 1700, 355 – 4 Avenue SW Calgary AB T2P 0J1	
MFC Acquisition Inc., As Administrative Agent 1000 925 W. Georgia Street Vancouver BC V6C 3L2	
MFC Industrial Ltd. 1000, Cathedral Place 925 West Georgia Street Vancouver, BC V6C 3L2	
Adeco Exploration Company Ltd. (0ZA0) c/o Bennett Jones LLPL 4500-855 2 Street SW Calgary AB T2P 4K7	
Ms. Nancy Penner Interwest Petroleums Ltd. c/o Parlee McLaws LLP 3300, 421 – 7th Avenue SW Calgary Alberta T2P 4K9	

Phillips Petroleum Canada Ltd. (0945) 1600-401 9 Avenue SW Calgary AB T2P 2H7	
R.W. Berry Canada, Inc. c/o Bennett Jones LLP 4500-855 2 Street SW Calgary AB T2P 3K7	
Prospex Resources Ltd. (A120) c/o Paramount Resources Ltd. (04W4) 4700-888 3 Street SW Calgary AB T2P 5C5	
Westhill Petroleum Ltd. (0EX2) 3300, 421 7 th Ave SW Calgary, AB T2P 4K9	
Dauntless Energy Inc. (A6H3) 1410-606 4 Street SW Calgary AB T2P 1T1	
Royalty Trust 400-144 4 Avenue SW Calgary AB T2P 3N4	
Canadian Freehold Consulting (1991) Ltd. 47 Edgehill Crescent NW Calgary AB T3A 2X5	
Chessor Holdings Ltd. 460 30 Ave Avenue NW Calgary AB T2M 2N4	
Copper Creek Gold Corp. 710 750 West Pender Street Vancouver BC V6C 2T7	
Country Rock Resources Ltd. (A2BY) 79 Windmill Way Calgary AB T3Z 1H5	
Newbert Petroleum Engineering Ltd. (0Z8W) Box 528 Crossfield AB T0M 0S0	
Scotia Oils Limited (0DK9) 1164-7620 Elbow Drive SW Calgary AB T2V 1K2	
Roseland Development Ltd. (0M21) 602 25 Avenue SW Calgary AB T2S 0L6	
264646 Alberta Ltd. 4th Floor, 4943 50 Street Red Deer AB T4N 1Y1	
Deloitte Management Services LP c/o Miller Thomson LLP 2700 Commerce Place 10155 102 Street	tgusa@millerthomson.com

Edmonton AB T5J 3W7 Tom Gusa	
Ember Resources Inc. (A1H9) 800-400 3 Avenue SW Calgary AB T2P 4H2	tzuorro@emberresources.com
Encana Corporation (0026) 500 Centre Street SE Box 2850 Calgary AB T2P 2S5	Dawn.cochrane@encana.com
Houston Oil & Gas Ltd. (A74H) 800-903 8 Avenue SW Calgary AB T2P 0P7	mark@houstonoil.ca
Husky Oil Operations Limited (0R46) 707 8 Avenue SW PO Box 6525 Stn D Calgary AB T2P 3G7	Husky.regulatory@huskyenergy.ca
Murphy Canada Exploration Company (0MY7) 1700-555 4 Avenue SW Calgary AB T2P 3Y3	Gaye_marshall@murphyoilcorp.com
New North Resources Ltd. (0CZ4) 320-700 4 Avenue SW Calgary AB T2P 3J4	Pradeep@new-north.com
Omers Energy Inc. (A08E) 3000-520 3 Avenue SW Calgary AB T2P 0R3	Jessica.gregorash@omersenergy.com
Mr. Paul Bothwell Pengrowth Energy Corporation (A5R5) 2100-222 3 Avenue SW Calgary AB T2P 0B4	Paul.bothwell@pengrowth.com
Penn West Petroleum Ltd. (0BP8) 200-207 9 Avenue SW Calgary AB T2P 1K3	regulatory@pennwest.com
Pine Cliff Energy Ltd. (A1GR) 850-1015 4 Street SW Calgary AB T2R 1J4	tmcneill@pinecliffenergy.com hisidoro@pinecliffenergy.com
SanLing Energy Ltd. (A7AZ) 1700-250 2 Street SW Calgary AB T2P 0C1	Kate.ramage@sanlingenergy.com David.west@sanlingenergy.com
Signalta Resources Limited (0R89) 700-840 6 Avenue SW Calgary AB T2P 3E5	Angela.meister@signalta.com
Southern Pacific Energy Ltd. (A5A6) 1700-205 5 Avenue SW Calgary AB T2P 2V7 Rick Osuna	c/o PricewaterhouseCoopers Inc. in its capacity as Court appointed Receiver of Southern Pacific Energy Ltd. and not in its personal capacity rick.f.osuna@ca.pwc.com
Stockwork Properties Ltd. (0EN3) 501-888 4 Avenue SW	dmdixon@telus.net

Calgary AB T2P 0V2	
Sutton Energy Ltd. (0M9E) 450-736 8 Avenue SW Calgary AB T2P 1H4	B_gough@shaw.ca
TAQA North Ltd. (A2TG) 2100-308 4 Avenue SW Calgary AB T2P 0H7	regulatoryaffairs@taqa.ca
Trident Exploration (Alberta) Corp. (A663) 1000-444 7 Avenue SW Calgary AB T2P 0X8	phawke@tridentexploration.ca
Zargon Oil & Gas Ltd. (0MP9) 700-333 5 Avenue SW Calgary AB T2P 3B6	rdoetzel@zargon.ca
Bounty Developments Ltd. (0HP8) 1250-340 12 Avenue SW Calgary AB T2R 1L5	Kelly@bountydev.com
The Paddon Hughes Development Co. Ltd. 940-1122 4 Street SW Calgary AB T2R 1M1	waldyk@paddonhughes.com
6058931 Canada Inc. 1650-801 6 Avenue SW Calgary AB T2P 3W2	6058931_operations@questerre.com
Direct Energy Marketing Limited (0RC3) PO Box 4335 Stn C Calgary AB T2T 4K3	catherine.hiscocks@centrica.com
Long Term Asset Management Inc. (A6JF) 925 Veterans Boulevard NW Airdrie AB T4A 2G6	maugust@ltam.ca
Alberta Treasury Branches 600-444 7 Avenue SW Calgary, AB T2P 0X8 Alex Corbett Dawn Walby	acorbett@atb.com dwalby@atb.com
Caledonian Royalty Corporation (A684) 2200-300 5 Avenue SW Calgary AB T2P 3C4 David Horn Charles Selby	David.horn@caledonianroyalty.com Charles@selbypro.com
Coastal Resources Limited (OPR1) 1400-520 5 Avenue SW Calgary AB T2P 3R7	rlakhoo@coastal.ab.ca
Bonavista Energy Corporation (A5RX) 1500-525 8 Avenue SW Calgary AB T2P 1G1	Colin.hennel@bonavistaenergy.com
ConocoPhillips Canada Resources Corp. (A5G3) 1600-401 9 Avenue SW Calgary AB T2P 2H7	regulatoryaffairsmailbox@conocophillips.com

Crescent Point Energy Corp. (A2J6) 2000-585 8 Avenue SW Calgary AB T2P 1G1		regulatory@crescentpointenergy.com
Canadian Natural Resources Limited (OHE9) 2100-855 2 Street SW Calgary AB T2P 4J8		Orest.kotelko@cnrl.com Jeff.davidson@cnrl.com
Groia & Company 365 Bay Street, 11 th Floor Toronto ON M5H 2V1 Joseph Groia Bonnie Roberts Jones Tatsiana Okun	416-203-4476	jgroia@groiaco.com brjones@groiaco.com tokun@groiaco.com Counsel for Lexin Resources Inc.
Borden Ladner Gervais LLP 1900, 520 3 rd Ave SW Calgary, AB T2P 2T1 Robyn Gurofsky Jessica Cameron	403-232-9774 403-232-9715 403-232-1395 (Fax)	rgurofsky@blg.com jcameron@blg.com Counsel for Receiver
Grant Thornton Limited 900, 833 - 4th Ave SW Calgary, AB T2P 3T5 Michael Costello Andrew Basi Breanne Scott	403-296-3087 403-260-2571 (Fax)	Michael.Costello@ca.gt.com Andrew.Basi@ca.gt.com Breanne.Scott@ca.gt.com Receiver
Bennett Jones 4500 Bankers Hall East 855 2 nd Street SW Calgary, AB T2P 4K7 Brad Gilmour Laura Gill	403 298 3382	Gilmourb@bennettjones.com Gilll@bennettjones.com Counsel for the Orphan Well Association
Brownlee LLP 396 11 Ave SW Calgary, AB T2R 0C3 Greg Plester	403-260-1475	gplester@brownleelaw.com Counsel for Municipal District of Vulcan County Counsel for Municipal District of Willow Creek No. 26
MLT Aikins LLP 1600, 520 3 Avenue SW Calgary AB T2P 0R3 Sean Fairhurst David Girard	403-693-4307	sfairhurst@mltaikins.com dgirard@mltaikins.com Counsel for Municipal District of Foothills
Billington Barristers 1910 Elveden House 717 – 7 Avenue SW Calgary AB T2P 0Z3 Richard N. Billington	403-930-4101	rbillington@billingtonbarristers.com Counsel for Young EnergyServe Inc.
Warren Sinclair LLP 600-4911 51 Street Red Deer AB T4N 6V4 Matthew T. Mowbrey .		mmowbrey@warrensinclair.com Counsel for Triple Seven Integrity Management Inc.

MLT Aikins LLP 1600 - 520 3 Avenue SW Calgary AB T2P 0R3 John P. Gruber	403-542-0705	jgruber@mltaikins.com Counsel for Bearspaw Petroleum
Department of Justice Canada Counsel Prairie Region 601-606 4 Street SW Calgary, AB T2P 1T1 Raymond Lee Lori Williams	403-299-3984 403-299-3507 (Fax)	Raymond.lee@justice.gc.ca Lori.williams@justice.gc.ca Counsel for Indian Oil and Gas
Carscallen LLP 1500 - 407 2 Street SW Calgary AB T2P 2Y3 Michael B. Niven, Q.C. Hema Ahuja	403-298-8464 403-262-2952 (Fax)	niven@carscallen.com Ahuja@carscallen.com Counsel for Landowners: Section 23 Developments Ltd. and Alexander Soutzo
Field Law LLP 400-444 7 Ave. S.W. Calgary AB T2P 0X8 Doug Nishimura	403 260 8548	dnishimura@fieldlaw.com Counsel for Compass Compression Services Ltd.
Bennett Jones 4500 Bankers Hall East 855 2nd Street SW Calgary, AB T2P 4K7 Chris Simard	403 298 4492	simardc@bennettjones.com Counsel for Exxon Mobil
Lerners LLP 130 Adelaide Street West, Suite 2400 Toronto, ON M5H 3P5 Angus T. McKinnon Alan Melamud	416 360 2632	amckinnon@lerners.ca amelamud@lerners.ca Counsel for 1049597 BC Ltd.
BC Oil and Gas Commission PO Box 9331 Stn Prov Govt Victoria, BC V8W 9N3 Sara Gregory		Sara.Gregory@bcogc.ca
DLA Piper (Canada) LLP #1000, 250 2nd St SW Calgary, AB T2P 0C1 Karen Fellowes Carole Hunter		Karen.fellowes@dlapiper.com Counsel for MNP, Trustee in Bankruptcy for LR Processing carole.hunter@dlapiper.com Counsel for Highfield Investment Group Inc.
Cassels Brock LLP 1250 Millennium Tower 440 – 2nd Avenue SW Calgary AB T2P 5E9 Jacqueline Chow Danielle Maréchal	403-351-2932	jchow@casselsbrock.com dmarechal@casselsbrock.com ktempleton@casselsbrock.com Counsel for Tamarack Valley Energy Ltd.

Keith Templeton		
Carscallen LLP 1500-407 2 Street SW Calgary AB T2P 2YE Glenn C. Blackett	403-298-8474	Blackett@Carscallen.com Counsel for various land owners
JSS Barristers 800, 304 8 Ave SW Calgary, AB T2P 1C2 Christa Nicholson		nicholsonc@jssbarristers.ca Counsel for Alberta Energy Regulator
Alberta Energy Regulator 1000-250 5 Street SW Calgary AB T2P 0R4 Patricia Johnston Keely Cameron	403-476-9381 403-297-7031 (Fax)	Patricia.johnston@aer.ca Keely.cameron@aer.ca
Alberta Justice Energy Law 9 th Floor, 9945 108 Street Edmonton, AB T5K 2G6 Peter Mittal Vivienne Ball Lisa Semenchuk Christine King Wade Clark Delaine Dew Georgia Gerontas	780-427-1848 780-427-1871 (Fax)	Peter.Mittal@gov.ab.ca vivienne.ball@gov.ab.ca Lisa.Semenchuk@gov.ab.ca christine.king@gov.ab.ca Wade.Clark@gov.ab.ca delaine.dew@gov.ab.ca Georgia.Gerontas@gov.ab.ca
Alberta Justice Constitutional Law 4 th Floor, 9833 109 Street Edmonton, AB T5K 2E8 Lillian Riczu	780-422-9114	Lillian.Riczu@gov.ab.ca
PrairieSky Royalty Ltd. 1700, 350 7 Avenue SW Calgary, AB T2P 3N9 Matthew McMahon	587-293-4099	matthew.mcmahon@prairiesky.com
Wilson Laycraft 1601, 333 11th Avenue SW Calgary AB T2R 1L9 Glen Hickerson	403-441-2258	glenmh@wilcraft.com Counsel for Stan Schieck
McMillan 1700, 421 7 Avenue SW Calgary, AB T2P 4K9 Michael A. Thackray	403-531-4710	michael.thackray@mcmillan.ca Counsel for HESC Energy Corporation
Stikeman Elliott LLP 4300 Bankers Hall West 888 3 Street West	403-266-9079	bsquibb@stikeman.com Counsel for Lexin Resources Ltd.

Calgary, AB T2P 5C5 Bradley Squibb		
MLT Atkins LLP 1600, 520 3 rd Ave SW Calgary, AB T2P 0R3 Julie Shepherd	403-693-4300	jshepherd@mltaikins.com Counsel for Municipal District of Ranchland No. 66
Dentons Canada LLP 2900, 10180 - 101 Street Edmonton, AB T5J 3V5 Dean A. Hitesman	780-423-7284	dean.hitesman@dentons.com Counsel for F12.net Inc.
DLA Piper 1000, 250 2nd St SW Calgary, AB T2P 0C1 Jonathon Ward		jonathon.ward@dlapiper.com Counsel for DNOW Canada ULC
Reynolds Mirth Richards & Farmer LLP 3200, 10180 - 101 Street Edmonton, AB T5J 3W8 Robert J. McCarthy	780-497-3377	rmccarty@rmrf.com Counsel for Kneehill County
Bennett Jones 4500 Bankers Hall East 855 2nd Street SW Calgary, AB T2P 4K7 Athyna J. Slack	403-298-8137	slacka@bennettjones.com counsel for Scott Land & Lease Ltd.
DLA Piper (Canada) LLP 250 2nd St SW #1000, Calgary, AB T2P 0C1 Laura Easton	403-697-8753	laura.easton@dlapiper.com Counsel for Banker Hughes Canada Company
Rose LLP 810, 333 5 Ave SW Calgary, AB T2P 3B6 Michelle A. Herron	403-776-0511	michelle.herron@rosellp.com Counsel for Equinox Engineering Canada Ltd.
Thornborough Smeltz LLP 11650 Elbow Dr SW Calgary, AB T2W 1S8 Peter Osadetz	403-271-3221	peter@thornsmeltz.com Counsel for Global Steel Ltd. and Silverstar Oilfield Transportation Ltd.
Bill Hagel		hagelb@shaw.ca
Corwin Hiebert		corwin@live.ca
Christopher Hare		chris@hare100.co.uk
Michael Braid		mbraid@stowford.vispa.com
Patrick Hare		patrickhare44@gmail.com

Henry Strembicke		stremco@telusplanet.net Stremco Engineering Ltd.
Keith MacLean		keith@bluemooncourt.ca Quantum Murray Limited Partnership Brenntag Canada Inc.
Olivier Pakos		ecm@ecm.ab.ca EC & M Electric 1934 Ltd.

Schedule “B” Form of Order

COURT FILE NUMBER **1701-03460**

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF **ALBERTA ENERGY REGULATOR**

DEFENDANTS **LEXIN RESOURCES LTD., 1051393 B.C. LTD.,
0989 RESOURCE PARTNERSHIP, LR
PROCESSING LTD. and LR PROCESSING
PARTNERSHIP**

DOCUMENT **ORDER APPROVING SALES PROCESS
AND THE ENGAGEMENT OF SALES ADVISOR**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT Robyn Gurofsky/Jessica L. Cameron
Borden Ladner Gervais LLP
1900, 520 3rd Ave. S.W.
Calgary, AB T2P 0R3
Telephone: (403) 232-9774/9715
Facsimile: (403) 266-1395
Email: rgurofsky@blg.com/jcameron@blg.com
File No. 547730-000021

DATE ON WHICH ORDER WAS PRONOUNCED: July 14, 2017

NAME OF JUSTICE WHO MADE THE ORDER: The Honourable Justice K.M. Horner

LOCATION OF HEARING: Calgary, Alberta

UPON the Application of Grant Thornton Limited, in its capacity as the court-appointed receiver (the "**Receiver**") of Lexin Resources Ltd. ("**Lexin**"), 1051393 B.C. Ltd. ("**105**"), 0989 Resource Partnership ("**0989**"), LR Processing Ltd. ("**LR Ltd.**") and LR Processing Partnership ("**LR Processing**" and collectively with Lexin, 105, 0989 and LR Ltd. the "**Debtors**"; **AND UPON** having read the Fourth Report of the Receiver dated July 6, 2017, filed (the "**Fourth Report**"), the Affidavit of Service of [●], filed, and the pleadings and proceedings filed herein, including the Lexin Receivership Order granted on March 20, 2017 and the Expanded Receivership Order granted on June 13, 2017 (the "**Expanded Receivership Order**"; **AND UPON** hearing from counsel for the Receiver, counsel for the Alberta Energy Regulator ("**AER**"), and counsel for any other interested parties appearing at the hearing of this application:

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The time for service of this application together with all supporting materials is hereby declared to be good and sufficient and no other person is required to have been served with such documents, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.

Approval of the Sales Process & Financial Advisor

2. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the sales process attached hereto as **Schedule “A”** (the “**Sales Process**”).
3. The Sales Process is hereby approved. The Receiver is hereby authorized and directed to implement the Sales Process and do all things as are reasonably necessary to conduct and give full effect to the Sales Process and carry out its obligations thereunder, including seeking approval of this Court following the selection of a Successful Bid under the Sales Process.
4. The engagement letter between Sayer Energy Advisors (the “**Sales Advisor**”) and the Receiver dated June 28, 2017 (the “**Engagement Letter**”) and as attached as Confidential Appendix “7” to the Fourth Report (the “**Confidential Appendix**”), is hereby approved. The Receiver is hereby authorized and directed to do all things as are reasonably necessary to conduct and give effect to the Engagement Letter and carry out its obligations thereunder, including payment of amounts due to be paid pursuant to the terms of the Engagement Letter.
5. The Sales Advisor, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by the Receiver as sales advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Sales Advisor in performing its obligations under the Engagement Letter.

Sealing Order

6. The Confidential Appendix shall be sealed on the Court file, kept confidential and not form part of the public record.
7. The Clerk of the Court shall file the Confidential Appendix in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states that:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED IN COURT FILE NO. 1701-03460. THE CONFIDENTIAL MATERIALS ARE SEALED PURSUANT TO THE SEALING ORDER ISSUED BY THE HONOURABLE JUSTICE K.M. HORNER ON JULY 14, 2017.

8. The Receiver is empowered and authorized, but not directed, to provide the Confidential Appendix (or any portion thereof, or information contained therein) to any interested party, entity or person that the Receiver considers reasonable in the circumstances, subject to confidentiality arrangements satisfactory to the Receiver.
9. Leave is hereby granted to any person or party affected by this Order to apply to this Honourable Court for a further order modifying or varying the terms of this Order, with such Application to be brought on no less than 7 days' notice to the Receiver and the AER, and any other affected party pursuant to the Alberta Rules of Court.

Increase to Borrowings Charge

10. The Receiver's Borrowings Charge provided by paragraphs 24 to 26 of the Expanded Receivership Order is hereby increased from \$1,200,000 to \$2,100,000 and the Receiver shall be authorized to borrow, by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,100,000.

Approval of Receiver's Activities & Accounts

11. The Receiver's activities as set out in the Third Report of the Receiver dated June 9, 2017 and the Fourth Report, each filed herein, are hereby ratified and approved.
12. The Receiver's Statement of Receipts and Disbursements for the period March 20, 2017 to July 5, 2017, as more particularly set out in paragraph 70 of the Fourth Report, is approved, including the accounts of the Receiver for its fees and disbursements and the fees and disbursements of the Receiver's legal counsel, Borden Ladner Gervais LLP, without the necessity of a formal assessment of their accounts.

Miscellaneous Matters

13. Service of this Order shall be deemed good and sufficient by serving the same on:
 - a) the persons listed on the service list (attached as Schedule "A" to the Application); and
 - b) by posting a copy of this Order on the Receiver's website at: www.grantthornton.ca/lexin
14. No other persons are entitled to be served with a copy of this Order.

15. Service of this Order shall be deemed good and sufficient regardless of whether service is effected by PDF copy attached to email, facsimile, courier, personal deliver or ordinary mail.

Justice of the Court of Queen's Bench of Alberta