CROSS-BORDER INSOLVENCY PROTOCOL
FOR THE LOEWEN GROUP INC. AND ITS AFFILIATES

Between the United States Bankruptcy Court
for the District of Delaware (Case No. 99-1244)
and
the Ontario Superior Court of Justice
at Toronto (Case No. 99-CL-3384)

This cross-border insolvency protocol (the "Protocol") shall govern the conduct of all parties in interest in the Insolvency Proceedings (as such term is defined herein):

A. Background

1. The Loewen Group Inc., a British Columbia corporation ("TLGI"), is the ultimate parent company of a multinational enterprise that operates, through its various subsidiaries and affiliates, in the United States, Canada and other countries.

2. TLGI and certain of its direct and indirect United States subsidiaries and affiliates (collectively, the "U.S. Debtors") have commenced reorganization cases (collectively, the "U.S. Cases") under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the District of Delaware (the "U.S. Court"). The U.S. Debtors are continuing in possession of their respective properties and are operating and managing their businesses, as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code. The office of the United States trustee (the "U.S. Trustee") has not yet appointed any official committee of stakeholders in the U.S. Cases (collectively, as may be appointed, the "Committee").

3. TLGI and certain of its direct and indirect Canadian subsidiaries and affiliates (collectively, the "Canadian Debtors") have commenced insolvency proceedings (collectively, the "Canadian Cases") by filing an application under the applicable provisions of the Canadian *Companies' Creditors Arrangement Act* (the "CCAA") with the Ontario Superior Court of Justice (the "Canadian Court"). The Canadian Debtors have sought an order of the Canadian Court (as initially made under the CCAA and as subsequently amended or modified, the "CCAA Order") under which (a) the Canadian Debtors will be determined to be entities to which the CCAA applies and (b) KPMG Inc. will be appointed as monitor of the Canadian Debtors (the "Monitor"), with the rights, powers, duties and limitations upon liabilities set forth in the CCAA Order.

4. For convenience, (a) the U.S. Debtors and the Canadian Debtors shall be referred to herein collectively as the "Debtors," (b) the U.S. Cases and the Canadian Cases shall be referred to herein collectively as the "Insolvency Proceedings" and (c) the U.S. Court and the Canadian Court shall be referred to herein collectively as the "Courts".

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B. Purpose and Goals

5. While dual proceedings are pending in the United States and Canada for TLGI, the implementation of basic administrative procedures is necessary to coordinate certain activities in the Insolvency Proceedings, protect the rights of parties thereto and ensure the maintenance of the Courts' independent jurisdiction and comity. Accordingly, this Protocol has been developed to promote the following mutually desirable goals and objectives in both the U.S. Cases and the Canadian Cases:

- harmonize and coordinate activities in the Insolvency Proceedings before the U.S. Court and the Canadian Court;
- promote the orderly and efficient administration of the Insolvency Proceedings to, among other things, maximize the efficiency of the Insolvency Proceedings, reduce the costs associated therewith and avoid duplication of effort;
- honor the independence and integrity of the Courts and other courts and tribunals of the United States and Canada;
- promote international cooperation and respect for comity among the Courts, the Debtors, the Committee, the Estate Representatives (as such term is defined herein) and other creditors and interested parties in the Insolvency Proceedings;
- facilitate the fair, open and efficient administration of the Insolvency Proceedings for the benefit of all of the Debtors' creditors and other interested parties, wherever located; and
- implement a framework of general principles to address basic administrative issues arising out of the cross-border nature of the Insolvency Proceedings.

C. Comity and Independence of the Courts

6. The approval and implementation of this Protocol shall not divest or diminish the U.S. Court's and the Canadian Court's independent jurisdiction over the subject matter of the U.S. Cases and the Canadian Cases, respectively. By approving and implementing this Protocol, neither the U.S. Court, the Canadian Court, the Debtors nor any creditors or interested parties shall be deemed to have approved or engaged in any infringement on the sovereignty of the United States or Canada.

7. The U.S. Court shall have sole and exclusive jurisdiction and power over the conduct and hearing of the U.S. Cases. The Canadian Court shall have sole and exclusive jurisdiction and power over the conduct and hearing of the Canadian Cases.

8. In accordance with the principles of comity and independence established in paragraphs 6 and 7 above, nothing contained herein shall be construed to:

- increase, decrease or otherwise modify the independence, sovereignty or jurisdiction of the U.S. Court, the Canadian Court or any other court or tribunal in the United States or Canada, including the ability of any such court or tribunal to provide appropriate relief under applicable law on an ex parte or "limited notice"

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basis;

- require the Debtors, the Committee or the Estate Representatives to take any action or refrain from taking, any action that would result in a breach of any duty imposed on them by any applicable law;

- authorize any action that requires the specific approval of one or both of the Courts under the Bankruptcy Code or the CCAA after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol); or

- preclude any creditor or other interested party from asserting such party's substantive rights under the applicable laws of the United States, Canada or any other jurisdiction including, without limitation, the rights of interested parties or affected persons to appeal from the decisions taken by one or both of the Courts.

9. The Debtors, the Committee, the Estate Representatives and their respective employees, members, agents and professionals shall respect and comply with the independent, non-delegable duties imposed upon them by the Bankruptcy Code, the CCAA, the CCAA Order and other applicable laws.

D. Cooperation

10. To assist in the efficient administration of the Insolvency Proceedings, the Debtors, the Committee and the Estate Representatives shall (a) cooperate with each other in connection with actions taken in both the U.S. Court and the Canadian Court and (b) take any other appropriate steps to coordinate the administration of the U.S. Cases and the Canadian Cases for the benefit of the Debtors` respective estates and stakeholders.

11. To harmonize and coordinate the administration of the Insolvency Proceedings, the U.S. Court and the Canadian Court each shall use its best efforts to coordinate activities with and defer to the judgment of the other Court, where appropriate and feasible. The U.S. Court and the Canadian Court may communicate with one another with respect to any matter relating to the Insolvency Proceedings and may conduct joint hearings with respect to any matter relating to the conduct, administration, determination or disposition of any aspect of the U.S. Cases and the Canadian Cases, in circumstances where both Courts consider such joint hearings to be necessary or advisable and, in particular, to facilitate or coordinate with the proper and efficient conduct of the U.S. Cases and the Canadian Cases. With respect to any such hearings, unless otherwise ordered, the following procedures will be followed:

(i) a telephone or video link shall be established so that both the U.S. Court and the Canadian Court shall be able to simultaneously hear the proceedings in the other Court;

(ii) any party intending to rely on any written evidentiary materials in support of a submission to the U.S. Court or the Canadian Court in connection with any joint hearing or

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application shall file such materials, which shall be identical insofar as possible and shall be consistent with the procedural and evidentiary rules and requirements of each Court, in advance of the time of such hearing or the submission of such application. If a party has not previously appeared in or attorned or does not wish to attorn to the jurisdiction of either Court, it shall be entitled to file such materials without, by the act of filing, being deemed to have attorned to the jurisdiction of the Court in which such material is filed, so long as it does not request in its materials or submissions any affirmative relief from the Court to which it does not wish to attorn;

(iii) submissions or applications by any party shall be made only to the Court in which such party is appearing, unless specifically given leave by the other Court to make submissions or applications to it;

(iv) the Judge of the U.S. Court and the Justice of the Canadian Court who will hear any such application shall be entitled to communicate with each other in advance of the hearing on the application, with or without counsel being present, to establish guidelines for the orderly submission of pleadings, papers and other materials and the rendering of decisions by the U.S. Court and the Canadian Court, and to deal with any related procedural, administrative or preliminary matters; and

(v) the Judge of the U. S. Court and the Justice of the Canadian Court, having heard any such application, shall be entitled to communicate with each other after the hearing on such application, without counsel present, for the purpose of determining whether consistent rulings can be made by both Courts, and the terms upon which such rulings should be made, as well as to address any other procedural or non-substantive matter relating to such applications.

12. Notwithstanding the terms of paragraph 11 above, the Protocol recognizes that the U.S. Court and the Canadian Court are independent courts. Accordingly, although the Courts will seek to cooperate and coordinate with each other in good faith, each of the Courts shall be entitled at all times to exercise its independent jurisdiction and authority with respect to (a) matters presented to such Court and (b) the conduct of the parties appearing in such matters.

E. <u>Retention and Compensation of Estate Representatives and Professionals</u>

13. Except as provided in paragraphs 19 and 20 below, the Monitor Parties (as hereinafter defined) and any other estate representatives appointed in the Canadian Cases (collectively, the "Canadian Representatives") shall be subject to the sole and exclusive jurisdiction of the Canadian Court with respect to all matters, including: (a) the Canadian Representatives' tenure in office; (b) the retention and compensation of the Canadian Representatives; (c) the Canadian Representatives' liability, if any, to any person or entity, including the Canadian Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the Canadian Representatives arising in the Canadian Cases under the CCAA or other applicable Canadian law. The Canadian Representatives and their Canadian counsel and any other Canadian professionals shall not be required to seek approval of their retention in the U.S. Court. Additionally, except to the extent that the Monitor is performing U.S. Services (as such term is defined below), the

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Canadian Representatives and their Canadian counsel and other Canadian professionals (a) shall be compensated for their services solely in accordance with the CCAA and other applicable Canadian law or orders of the Canadian Court and (b) shall not be required to seek approval of their compensation in the U.S. Court.

14. The Monitor, its Affiliated Professionals (as hereinafter defined) and their officers, directors, employees, counsel and agents, wherever located (collectively, the "Monitor Parties"), shall be entitled to the same protections and immunities in the United States as those granted to them under the CCAA Order. In particular, except as otherwise provided in any subsequent order entered in the Canadian Cases, the Monitor Parties shall incur no liability or obligations as a result of the CCAA Order, the appointment of the Monitor or carrying out of the provisions of the CCAA Order by the Monitor Parties, except any such liability arising from actions of the Monitor Parties constituting gross negligence or willful misconduct.

15. Except as provided in paragraphs 19 and 20 below, any estate representatives appointed in the U.S. Cases, including any examiners or trustees appointed in accordance with section 1104 of the Bankruptcy Code but, for clarity, excluding Canadian professionals retained by the Committee, (collectively, "U.S. Representatives" and, together with the Canadian Representatives, the "Estate Representatives"), shall be subject to the sole and exclusive jurisdiction of the U.S. Court with respect to all matters, including: (a) the U.S. Representatives' tenure in office; (b) the retention and compensation of the U.S. Representatives; (c) the U.S. Representatives' liability, if any, to any person or entity, including the U.S. Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the U.S. Representatives arising in the U.S. Cases under the Bankruptcy Code or other applicable laws of the United States. The U.S. Representatives and their U.S. counsel and other U.S. professionals shall not be required to seek approval of their retention in the Canadian Court. Additionally, the U.S. Representatives and their U.S. counsel and other U.S. professionals (a) shall be compensated for their services solely in accordance with the Bankruptcy Code and other applicable laws of the United States or orders of the U.S. Court and (b) shall not be required to seek approval of their compensation in the Canadian Court.

16. Any Canadian professionals retained by or with the approval of the Canadian Debtors, including Canadian professionals retained by the Committee (collectively, the "Canadian Professionals"), shall be subject to the sole and exclusive jurisdiction of the Canadian Court. Accordingly, the Canadian Professionals (a) shall be subject to the procedures and standards for retention and compensation applicable in Canada and (b) shall not be required to seek approval of their retention or compensation in the U.S. Court.

17. Any United States professionals retained by the U.S. Debtors and any United States professionals retained by the Committee (collectively, the "U.S. Professionals") shall be subject to the sole and exclusive jurisdiction of the U.S. Court. Accordingly, the U.S. Professionals (a) shall be subject to the procedures and standards for retention and compensation applicable in the U.S. Court

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under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court and (b) shall not be required to seek approval of their retention or compensation in the Canadian Court.

18. Notwithstanding anything above to the contrary, the Debtors' independent auditors, KPMG LLP, a limited liability partnership organized under the laws of the Province of Ontario (the "Auditors"), and restructuring accountants, KPMG Inc. (in such capacity, the "Restructuring Accountants"): (a) shall be required to seek the approval of their retention in the U.S. Court; and (b) except to the extent that they are providing Canadian Services in accordance with paragraph 19, below, shall be subject to the procedures and standards for review and approval of compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court. Save and except for the provisions of this paragraph, nothing in this Protocol shall be deemed to subject the Auditors and Restructuring Accountants to the jurisdiction of the U.S. Court or any court in the United States.

19. In performing their respective services in the U.S. Cases and the Canadian Cases, the Auditors, the Restructuring Accountants and the Monitor may from time to time utilize the services and expertise of individuals who are employed by, partners or members in or otherwise affiliated with certain related or affiliated entities (collectively, the "Affiliated Professionals"). The use of such Affiliated Professionals shall be subject to the following terms; conditions and procedures (collectively, the "Affiliate Fee Procedures"):

(a) The Auditors and the Restructuring Accountants may from time to time utilize the services and expertise of Affiliated Professionals in performing their services as independent auditors and restructuring accountants in the U.S. Cases. Among others, these Affiliated Professionals may include employees of, partners in or other individuals affiliated with the Monitor. All services provided by the Auditors, the Monitor and the Restructuring Accountants in connection with the provision of services to the U.S. Debtors in the U.S. Cases, including services provided by the Affiliated Professionals (collectively, "U.S. Services"), shall be billed to the U.S. Debtors by and through the Auditors, the Monitor and Restructuring Accountants respectively and shall be subject to the procedures and standards for review and approval of compensation applicable in the U.S. Court under the Bankruptcy Code and any other applicable laws of the United States or orders of the U.S. Court. Accordingly, all of the Monitor's fees and expenses incurred in providing U.S. Services to the U.S. Debtors (e.g., through individuals acting as Affiliated Professionals) shall be subject to the review and approval solely by the U.S. Court; provided, however, that the Monitor shall not be subject to the jurisdiction of the U.S. Court for any other purposes, except as expressly provided herein. Notwithstanding the foregoing, services provided by the Monitor that are utilized by the U.S. Debtors in the U.S. Cases, but otherwise would be performed by the Monitor in the Canadian Cases even if the U.S. Cases were not pending, are excluded from the definition of "U.S. Services."

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(b) The Monitor may from time to time utilize the services and expertise of Affiliated Professionals in performing its role as monitor in the Canadian Cases. Among others, these Affiliated Professionals may include employees of, partners in or other individuals affiliated with the Auditors or the Restructuring Accountants. All services provided by such Affiliated Professionals in connection with the provision of monitoring services to the Canadian Debtors in the Canadian Cases, including services provided by individuals affiliated with the Auditors or the Restructuring Accountants (collectively, "Canadian Services"), shall be billed to the Canadian Debtors by and through the Monitor and shall be subject to the procedures and standards for review and approval of compensation applicable in the Canadian Court under the CCAA, the CCAA Order and any other applicable Canadian law or orders of the Canadian Court. Accordingly, all of the Auditors' and the Restructuring Accountants' fees and expenses incurred in providing Canadian Services to the Monitor or the Canadian Debtors (i.e., through individuals acting as Affiliated Professionals to Monitor) shall be subject to review and approval solely by the Canadian Court.

(c) In implementing the foregoing procedures, the Auditors, Restructuring Accountants and the Monitor shall maintain separate and distinct billing functions. Therefore: (i) no fees or expenses incurred by the Auditors and the Restructuring Accountants or Affiliated Professionals for U.S. Services shall be charged by the Monitor, the Auditors or the Restructuring Accountants in the Canadian Cases; and (ii) no fees or expenses incurred by the Monitor or its Affiliated Professionals for Canadian Services in connection with the Canadian Cases shall be charged by the Auditors or the Restructuring Accountants in the U.S. Cases.

(d) Notwithstanding the foregoing, the U.S. Trustee shall have the right, upon request, to review the invoices for fees submitted by the Monitor to the Canadian Debtors to ensure that the Affiliate Fee Procedures are being implemented properly.

F. Rights to Appear and Be Heard

20. The Debtors, their creditors and other interested parties in the Insolvency Proceedings, including the Committee, the Estate Representatives and the U.S. Trustee, shall have the right and standing to (a) appear and be heard in either the U.S. Court or the Canadian Court in the Insolvency Proceedings to the same extent as creditors and other interested parties domiciled in the forum country, subject to any local rules or regulations generally applicable to all parties appearing in the forum and (b) file notices of appearance or other papers with the Clerk of the U.S. Court or the Canadian Court in the Insolvency Proceedings; provided, however, that any appearance or filing may subject a creditor or interested party to the jurisdiction of the Court in which the appearance or filing occurs; provided further, that appearance by the Committee in the Canadian Cases shall not form a basis for personal jurisdiction in Canada over the members of the Committee. Notwithstanding the foregoing, and in

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accordance with the policies set forth in paragraphs 13 and 15 above: (a) the Canadian Court shall have jurisdiction over the U.S. Representatives and the U.S. Trustee solely with respect to the particular matters as to which the U.S. Representatives or the U.S. Trustee appear before the Canadian Court; and (b) the U.S. Court shall have jurisdiction over the Canadian Representatives solely with respect to the particular matters as to which the Canadian Representatives appear before the U.S. Court.

G. Notice

21. Notice of any motion, application or other pleading or paper filed in one or both of the Insolvency Proceedings and notice of any related hearings or other proceedings mandated by applicable law in connection with the Insolvency Proceedings, or the Protocol shall be given by appropriate means (including, where circumstances warrant, by courier, telecopier or other electronic forms of communication) to the following: (a) all creditors, including the Committee, and other interested parties in accordance with the practice of the jurisdiction where the papers are filed or the proceedings are to occur; and (b) to the extent not otherwise entitled to receive notice under subpart (a) of this sentence, the Monitor, to its counsel Geoffery B. Morawetz, Goodman Phillips & Vineberg, Suite 2400, 250 Yonge Street, Toronto, Ontario M5B 2M6, Fax: (416) 979-1234, the U.S. Trustee, John D. McLaughlin, Office of the United States Trustee, Curtis Center, Suite 950 West, 601 Walnut Street, Philadelphia, Pennsylvania 19106, Fax: (215) 597-5795, and such other parties as may be designated by either of the Courts from time to time. The Monitor shall provide the U.S. Court or the Canadian Court, as the case may be, with copies of the Orders and of any reasons or opinions of the other Court in the Insolvency Proceedings.

H. Joint Recognition of Stays of Proceedings Under the Bankruptcy Code and the CCAA

22. In recognition of the importance of the stay of proceedings and actions against the Canadian Debtors, their directors and their assets under section 11 of the CCAA and the CCAA Order (the "Canadian Stay") on the successful completion of the Insolvency Proceedings for the benefit of the Debtors and their respective estates and stakeholders, to the extent appropriate the U. S. Coast shall extend and enforce the Canadian Stay in the United States (to the same extent such stay of proceedings and actions is applicable in Canada) to prevent adverse actions against the Canadian Debtors, their directors and the assets, rights and holdings of the Canadian Debtors in the United States. In implementing the terms of this paragraph, the U.S. Court may consult with the Canadian Court regarding (a) the interpretation and application of the Canadian Stay and any orders of the Canadian Court modifying or granting relief from the Canadian Stay; and (b) the enforcement in the United States of the Canadian Stay:

23. In recognition of the importance of the stay of proceedings and actions against the U.S. Debtors and their assets under section 362 of the Bankruptcy Code (the "U.S. Stay") to the successful completion of the Insolvency Proceedings for the benefit of the Debtors and their respective estates and stakeholders, to the extent appropriate the Canadian Court shall extend and enforce the U.S. Stay

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in Canada (to the same extent such stay of proceedings and action is applicable in the United States) to prevent adverse actions against the assets, rights and holdings, of the U.S. Debtors in Canada. In implementing the terms of this paragraph, the Canadian Court may consult with the U.S. Court regarding (a) the interpretation and application of the U.S. Stay and any order of the U.S. Court modifying or granting relief from the U.S. Stay and (b) the enforcement in Canada of the U.S. Stay.

24. Nothing contained herein shall affect or limit the Debtors' or other parties' rights to assert the applicability or non-applicability of the U.S. Stay or the Canadian Stay to any particular proceeding, property, asset, activity or other matter, wherever pending or located.

I. Effectiveness; Modification

25. This Protocol shall become effective only upon its approval by both the U.S. Court and the Canadian Court.

26. This Protocol may not be supplemented, modified, terminated or replaced in any manner except by the U.S. Court and the Canadian Court. Notice of any legal proceeding to supplement, modify, terminate or replace this Protocol shall be given in accordance with paragraph 21 above.

J. Procedure for Resolving Disputes Under the Protocol

21. Disputes relating to the terms, intent or application of this Protocol may be addressed by interested parties to either the U.S. Court, the Canadian Court or both Courts upon notice, in accordance with paragraph 21 above. Where an issue is addressed to only one Court, in rendering a determination in any such dispute, such Court: (a) shall consult with the other Court; and (b) may, in its sole and exclusive discretion, either (i) render a binding decision after such consultation, (ii) defer to the determination of the other Court by transferring the matter, in whole or in part, to the then Court or (iii) seek a joint hearing of both Courts. Notwithstanding the foregoing, each Court in making a determination shall have regard to the independence, comity or inherent jurisdiction of the other Court established under existing law.

K. Preservation of Rights

28. Neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall prejudice or affect the powers, rights, claims and defenses of the Debtors and their estates, the Committee, the Estate Representatives, the U.S. Trustee or any of the Debtors' creditors under applicable law, including the Bankruptcy Code and the CCAA.

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