

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

**MOTION RECORD OF CARGILL, INCORPORATED AND CARGILL
INTERNATIONAL TRADING PTE LTD. FOR CARGILL'S RESPONDING
CROSS-MOTION**

(Motion Returnable March 18, 2024)

March 14, 2024

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TACORA RESOURCES INC.**

**NOTICE OF RESPONDING CROSS-MOTION
OF CARGILL, INCORPORATED AND CARGILL INTERNATIONAL
TRADING PTE LTD.**

Cargill, Incorporated and Cargill International Trading Pte Ltd. (“CITPL”, and together, “Cargill”) will make a Responding Cross-Motion to a Judge presiding over the Commercial List on March 18, 2024 at 9:30 a.m., or as soon after that time as the Responding Cross-Motion can be heard.

PROPOSED METHOD OF HEARING: The Responding Cross-Motion is to be heard in person, at 330 University Avenue, Toronto, ON, M5G 1R7.

THE RESPONDING CROSS-MOTION IS FOR:¹

- (a) an adjournment of the Company’s DIP Replacement Motion and approval of an interim increase to the amount available under the existing Cargill DIP Financing in an amount to be agreed to by Tacora, the Monitor and Cargill, on the terms set

¹ Capitalized terms used herein and not otherwise defined herein have the meanings given to them in the Affidavit of Matthew Lehtinen sworn March 14, 2024. All dollar amounts referenced herein are in U.S. dollars unless otherwise stated.

forth in the Cargill Interim Amended DIP Agreement, pending the return of the Company's DIP Replacement Motion and the Cargill DIP Cross-Motion; and

- (b) a litigation schedule in respect of the Company's DIP Replacement Motion and the Cargill DIP Cross-Motion as agreed to by Tacora, the Monitor, the AHG and Cargill, or such other schedule as may be ordered by the Court, with a return date for such motions to be set during the week of April 2, 2024, or alternatively after the hearing in respect of the Company's reverse vesting transaction approval motion and Cargill's responding cross-motion (the "**RVO Motion and Cross-Motion Hearing**"); and
- (c) in the event the relief in (a) and (b) above is granted, approval of the Cargill Amended DIP Financing to be sought at the hearing for the adjourned motions; or
- (d) in the alternative to (a) and (b) above, approval of the Cargill Amended DIP Financing , on consent of Tacora, the Monitor, the AHG and Cargill, on the terms set forth in the Cargill Amended DIP Agreement; and
- (e) such further and other relief as counsel may advise and that to this Honourable Court may seem just (collectively referred to as the "**Cargill DIP Cross-Motion**").

THE GROUNDS FOR THE RESPONDING CROSS-MOTION ARE:

Background and Existing Cargill DIP Financing

- (a) On October 10, 2023, Tacora sought and obtained protection under the CCAA pursuant to the Initial Order granted by this Court, which was amended and restated pursuant to the ARIO on October 30, 2023.
- (b) Pursuant to the ARIO, this Court authorized Tacora to obtain the Cargill DIP Financing under the Cargill DIP Agreement.
- (c) The Cargill DIP Financing has provided material liquidity needed by the Company during these CCAA proceedings. The Cargill DIP Financing was provided on reasonable terms, and benefited Tacora and its stakeholders.
- (d) As of the date hereof, the full principal amount of \$75 million available under the Cargill DIP Financing has been advanced by Cargill to Tacora, and the full amount of the Post-Filing Credit Extensions of \$20 million has been utilized by Tacora. Tacora now requires additional DIP funding.
- (e) Cargill has been the DIP Lender to Tacora since the commencement of the CCAA proceedings. No parties have filed any materials that evidence that the Cargill DIP Financing has not served Tacora and its stakeholders well.

Company's Process for Increased DIP Financing

- (f) Tacora requested that Cargill provide a proposal for increased DIP funding, initially in an aggregate amount of \$32.5 million, and subsequently in an aggregate amount of \$52.5 million.
- (g) Tacora's counsel was specific in its instructions that “[p]roposals should not be linked in any manner related to the ongoing litigation related to the Successful Bid under the SISP.”
- (h) Cargill agreed to provide to Tacora the additional requested \$52.5 million on the terms set forth in the Cargill Amended DIP Proposal. Such Cargill Amended DIP Proposal, among other things, satisfied Tacora's required funding needs, included a limited fee of \$1.05 million, provided the Company with increased availability under the OPA as requested by Tacora, and provided the Company with the flexibility to seek to disclaim or terminate the Offtake and OPA pursuant to a Court approved disclaimer without triggering any Event of Default under the Cargill DIP Agreement.
- (i) On March 9, 2024, Tacora's counsel advised Cargill's counsel that Tacora had selected the AHG Replacement DIP Financing. On March 10, 2024, Cargill received a copy of the AHG Replacement DIP Agreement and a draft of Tacora's affidavit in support thereof. On March 11, 2024, Tacora served its motion materials in support of the AHG Replacement DIP Financing for a hearing scheduled on March 18, 2024.

- (j) Cargill is concerned by the limited efforts by the Company to advance the amended Cargill DIP Financing.
- (k) Cargill is also troubled by a number of misleading and/or inaccurate statements made in the Company's motion materials.

Significant Concerns Regarding the AHG Replacement DIP Financing

- (l) Cargill strongly believes that the AHG Replacement DIP Financing is not in the best interests of the Company or its stakeholders, and results in prejudice to Cargill, a significant stakeholder of Tacora.
- (m) The purpose and effect of the AHG Replacement DIP Financing is to inappropriately attempt to increase leverage by the AHG in respect of the proposed reverse vesting transaction entered into by Tacora, the AHG, RCF and Javelin (the "**AHG Reverse Vesting Transaction**"), that remains subject to obtaining Court approval, and is being opposed by Cargill.
- (n) Cargill has a number of key concerns with regards to the terms and impacts of the AHG Replacement DIP Financing on the Company and its stakeholders, as well as the process and motivations of the Company in selecting the AHG Replacement DIP Financing, among other things:
 - (i) the significantly higher DIP amount under the AHG Replacement DIP Financing;
 - (ii) the higher fees and expenses under the AHG Replacement DIP Financing;

- (iii) the “poison pill” structure of the AHG Replacement DIP Financing;
 - (iv) the significantly reduced term of the AHG Replacement DIP Financing as compared to the Cargill DIP Financing and the resulting reduced flexibility and runway for the Company; and
 - (v) the tunnel vision of the Company in pursuing the AHG Reverse Vesting Transaction at all costs and the failure by the Company to properly consider the impacts of the AHG Replacement DIP Financing on Cargill and other stakeholders.
- (o) The proposed AHG Replacement DIP Financing, with higher costs and expenses, less flexibility, shorter duration, more distraction, litigation and wasted resources, and incorporating a “poison pill” structure, is not fair or reasonable, and unduly prejudices Cargill and other stakeholders.
- (p) Accordingly, Cargill opposes the AHG Replacement DIP Financing and the Company’s DIP Replacement Motion.

Timing and Next Steps

- (q) As early as January, Cargill’s counsel raised the need for Tacora and its advisors to consider proper notice and scheduling of a motion that would seek to extend the stay of proceedings and increase the size of DIP financing for Tacora.
- (r) Such matters were raised by Cargill’s counsel several times in connection with the scheduling of the Company’s motion to seek approval of its proposed AHG Reverse

Vesting Transaction. The Company refused at all times to set any schedule in connection therewith.

- (s) Tacora served its motion record in respect of its DIP Replacement Motion on Monday, March 11, 2024, for a hearing scheduled to be heard on Monday, March 18, 2024. This does not provide the parties with sufficient time to address a proper litigation schedule, including conducting necessary examinations, in the limited time frame.
- (t) The Monitor has stated in its Third Report that the Company expected opposition to its DIP Replacement Motion and included the additional litigation costs into its proposed cash flow forecast that were filed with the Court. Nonetheless, the Company has continued to resist at all times providing proper time for the parties to properly address this material issue before the Court.
- (u) Accordingly, as part of Cargill's requested relief under the Cargill DIP Cross-Motion, Cargill is seeking an adjournment of the DIP Replacement Motion until the week of April 2, 2024, or alternatively to a date after the RVO Motion and Cross-Motion Hearing, with a litigation schedule in respect of the Company's DIP Replacement Motion and the Cargill DIP Cross-Motion as agreed to by Tacora, the Monitor, the AHG and Cargill, or such other schedule as may be ordered by the Court.
- (v) While Cargill would be prepared to address the matters in respect of the Company's DIP Replacement Motion and the Cargill DIP Cross-Motion during the week of

April 2, 2024, the benefits of deferring such motions to after the RVO Motion and Cross-Motion Hearing would be that this would remove the hypothetical around the “poison pill” feature of the AHG Replacement DIP Financing, and the Court would have the benefit of the full facts and implications to the Company and its stakeholders of the true costs and impacts of the AHG Replacement DIP Financing.

- (w) In connection with such adjournment, Cargill is willing to advance to Tacora additional interim amounts under the existing Cargill DIP Financing in an amount to be agreed to by Tacora, the Monitor and Cargill, on the substantially the same terms as the Cargill Amended DIP Financing, other than there would be no additional fees for the interim advance during the interim period, pending the return of the Company’s DIP Replacement Motion and the Cargill DIP Cross-Motion.
- (x) In the alternative to the foregoing adjournment and interim approval of the Cargill Interim Amended DIP Financing, Cargill seeks pursuant to the Cargill DIP Cross-Motion the approval of the Cargill Amended DIP Financing on the terms set out in the Cargill Amended DIP Agreement.
- (y) Cargill believes that its proposed relief under the Cargill DIP Cross-Motion is a fair and balanced approach to seeking a proper resolution of the material issues involving the Company’s DIP financing, that based on the current circumstances could have material implications and impact on the Company’s restructuring options, the outcome of these proceedings and overall effects on Tacora’s stakeholders.

- (z) One week is not sufficient time to properly advance such key matters in these proceedings, and Cargill is willing and able to provide the Company with sufficient funding to ensure such matters can be properly reviewed and resolved before this Court.
- (aa) Cargill has been a supportive business partner of Tacora since its inception in 2017, and continues to be willing to work to support the Company and to try to find potential consensual resolutions for the benefit of the Company and all stakeholders. Unfortunately, this has not been reciprocated by Tacora during these CCAA proceedings.
- (bb) Tacora has moved away from trying to find solutions or to seek relief from the Court on consent of its stakeholders.
- (cc) Tacora appears to be taking aggressive and hostile steps to seek to win at all costs in respect of its AHG Reverse Vesting Transaction.
- (dd) All stakeholders deserve due process as part of these CCAA proceedings.
- (ee) Cargill continues to desire to work constructively with Tacora, and we encourage Tacora and its advisors to work with Cargill to ensure protection for all stakeholders.

General

- (ff) Sections 11.2 and the other provisions of the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36.

- (gg) Rules 1.04, 1.05, 2.03, 3.02, 16, 17, 37, 38 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.
- (hh) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Cargill DIP Cross-Motion:

- (a) Affidavit of Matt Lehtinen, sworn March 14, 2024, and the exhibits thereto;
- (b) All of the evidence filed in support and response to the Company's DIP Replacement Motion;
- (c) Monitor's Third Report dated March 13, 2024; and
- (d) Such further and other evidence as counsel may advise and this Honourable Court may permit.

March 14, 2024

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TO: **THE SERVICE LIST**

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding Commenced At Toronto

NOTICE OF RESPONDING CROSS-MOTION

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TACORA RESOURCES INC.**

**AFFIDAVIT OF MATTHEW LEHTINEN
Sworn March 14, 2024**

I, Matthew Lehtinen, of the City of Carmel, in the State of Indiana, make oath and say:

1. I am employed by Cargill, Incorporated ("**Cargill Inc.**") as the Customer Manager Americas in respect of its metals business. I was hired by Cargill in August 2023 as a full-time senior employee, and began to work on matters relating to Tacora Resources Inc. ("**Tacora**" or the "**Company**") upon my hiring in my role at Cargill's metals business. As such, I have personal knowledge of the matters deposed to herein. To the extent that information has been provided to me by others, I have specified the source of that information. In each case, I believe the information I refer to is true. Nothing in this affidavit is intended to limit or waive privilege. Cargill Inc. together with Cargill International Trade PTE Ltd. ("**CITPL**") are collectively referred to herein as "**Cargill**".

2. As discussed herein, Cargill has very significant and material concerns with respect to the Company's proposed replacement DIP financing (the "**AHG Replacement DIP Financing**"), and the process and motivation for such replacement DIP financing. Cargill believes that Tacora has lost focus on how it should be proceeding in these CCAA proceedings, and has continued to fail

to take into proper consideration the interests of Cargill, a material stakeholder of the Company. This affidavit is sworn in support of Cargill's objection to the Company's proposed replacement DIP financing motion (the "**DIP Replacement Motion**"), and in support of Cargill's responding cross-motion (the "**Cargill DIP Cross-Motion**") seeking the following relief:

- (a) an adjournment of the Company's DIP Replacement Motion and approval of an interim increase to the amount available under the existing Cargill DIP Financing (as defined below) in an amount to be agreed to by Tacora, the Monitor and Cargill, on the terms set forth in the Cargill Interim Amended DIP Agreement (as defined below), pending the return of the Company's DIP Replacement Motion and the Cargill DIP Cross-Motion; and
- (b) a litigation schedule in respect of the Company's DIP Replacement Motion and the Cargill DIP Cross-Motion as agreed to by Tacora, the Monitor, the AHG and Cargill, or such other schedule as may be ordered by the Court, with a return date for such motions to be set during the week of April 2, 2024, or alternatively after the hearing in respect of the Company's reverse vesting transaction approval motion and Cargill's responding cross-motion (the "**RVO Motion and Cross-Motion Hearing**"); and
- (c) in the event the relief in (a) and (b) above is granted, approval of the Cargill Amended DIP Financing (as defined below) to be sought at the hearing for the adjourned motions; or

(d) in the alternative to (a) and (b) above, approval of the Cargill Amended DIP Financing (as defined below), on consent of Tacora, the Monitor, the AHG and Cargill, on the terms set forth in the Cargill Amended DIP Agreement (as defined below).

3. Cargill strongly believes that the AHG Replacement DIP Financing is not in the best interests of the Company or its stakeholders, and results in prejudice to Cargill, a significant stakeholder of Tacora. The purpose and effect of the AHG Replacement DIP Financing is to inappropriately attempt to increase leverage by the AHG in respect of the proposed reverse vesting transaction entered into by Tacora, the AHG, RCF and Javelin (the “**AHG Reverse Vesting Transaction**”), that remains subject to obtaining Court approval, by, among other things, (i) significantly increasing the total amount of DIP financing that the Company will need than would otherwise be required if the Cargill DIP Financing remained in place (including as amended to provide the Company with its requested incremental funding), (ii) including a “poison pill” making it more expensive for the Company to implement any other alternative transaction, (iii) significantly reducing the term of the DIP financing thereby reducing flexibility for the Company should the proposed AHG Reverse Vesting Transaction not be approved by this Court or implemented, and (iv) providing for a significant fee for a 30-day extension of the AHG Replacement DIP Financing from June 1 to June 30, 2024.

4. Cargill is also troubled by a number of misleading and/or inaccurate statements made in the affidavit of Mr. Joe Broking sworn March 11, 2024 (the “**Broking Affidavit**”).

5. Cargill has been a supportive business partner of Tacora since its inception in 2017, and continues to be willing to work to support the Company and to try to find potential consensual

resolutions for the benefit of the Company and all stakeholders. Cargill believes that its proposed relief under the Cargill DIP Cross-Motion is a fair and balanced approach to seeking a proper resolution of the material issues involving the Company's DIP financing, that based on the current circumstances could have material implications and impact on the Company's restructuring options, the outcome of these proceedings and overall effects on Tacora's stakeholders. One week is not sufficient time to properly advance such key matters in these proceedings, and Cargill is willing and able to provide the Company with sufficient funding to ensure such matters can be properly reviewed and resolved before this Court.

6. Capitalized terms used and not otherwise defined herein have the meanings given to them in either my affidavit sworn on March 1, 2024 and filed in these proceedings (the "**Cargill March 1 Affidavit**"), a copy of which is attached hereto, without exhibits, as Exhibit "**A**" or the DIP Facility Term Sheet entered into between Cargill Inc. and Tacora dated October 9, 2023 (the "**Cargill DIP Agreement**"), and a copy of which is attached hereto as Exhibit "**B**", as applicable. All dollar amounts referenced herein are in U.S. dollars unless otherwise stated.

I. OVERVIEW

7. As described in greater detail in the Cargill March 1 Affidavit, Cargill has been a key partner and important source of financial support for Tacora since its inception. Cargill is Tacora's offtake and technical marketing provider under the Offtake Agreement that was negotiated in April of 2017. Cargill is or has also been party to other key related agreements and arrangements with Tacora including: (i) multiple working capital facilities to optimize Tacora's operations, working capital, cash flow and liquidity (including under the APF, the OPA and the Wetcon Agreement), (ii) as provider of a hedging program in a cost efficient and beneficial manner for Tacora, and (iii)

as provider of operational expertise and assistance at the Scully Mine. As part of Tacora's proceedings under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the "CCAA"), Cargill has also provided debtor-in-possession financing to Tacora pursuant to the Cargill DIP Agreement (the "**Cargill DIP Financing**"), discussed further below. Cargill also (directly and/or indirectly) holds common shares and preferred shares of Tacora, and, until recently, Cargill employees served as technical and business advisors to Tacora in addition to serving as the acting general manager of operations of Tacora.

8. Cargill has, for an extended period of time, worked to assist Tacora and to provide stability and funding to Tacora for its operations, particularly when alternative sources of liquidity were not available, including investing in preferred shares in November 2022 to facilitate Tacora's payment of interest under its senior secured notes, entering into the APF in January 2023, entering into the Wetcon Agreement in the fall of 2023, and prepaying certain amounts prior to them being due to Tacora in the fall of 2023, in each case for the benefit of Tacora and its stakeholders. Cargill has a long history of working with Tacora in a positive and constructive way to find balanced and reasonable solutions.

II. CARGILL DIP FINANCING

9. This Court authorized Tacora to obtain the Cargill DIP Financing under the Cargill DIP Agreement pursuant to the amended and restated initial order granted on October 30, 2023 in these proceedings (the "**ARIO**").

10. The Cargill DIP Financing has provided material liquidity needed by the Company during these CCAA proceedings. The Cargill DIP Financing was provided on reasonable terms, and benefited Tacora and its stakeholders.

11. As of the date hereof, the full principal amount of \$75 million available under the Cargill DIP Financing has been advanced by Cargill to Tacora, and the full amount of the Post-Filing Credit Extensions of \$20 million has been utilized by Tacora. The last draw request of \$19.5 million was submitted by Tacora to Cargill on February 26, 2024, and funded by Cargill on or about February 28, 2024.

III. COMPANY’S PROCESS TO SEEK INCREASED DIP FINANCING

12. On Tuesday, February 20, 2024, at 11:00 p.m., the Monitor provided to Cargill cash flow forecasts showing “an additional DIP need to May 19, 2024 of approximately \$32.5m”. A copy of such email is attached hereto, without attachments, as Exhibit “C”.

13. On Wednesday, February 21, 2024, at 10:43 p.m., Stikemans sent an email on behalf of the Company to Cargill and its advisors “requesting a DIP amendment/increase proposal that provide sufficient funding to May 19, 2024 based on the cash flow forecast that was distributed last night.” The request specified that Cargill’s proposal should be provided by Monday, February 26, 2024 at 5:00 p.m. The Company’s request further included the following instructions:

Proposals should not be linked in any manner related to the ongoing litigation related to the Successful Bid under the SISP and need to provide sufficient funding for the Company regardless of the outcome of the hearing on April 10 – 12. [Emphasis added.]

A copy of such email is attached hereto as Exhibit “D”.

14. On Thursday, February 22, 2024, Goodmans, on behalf of Cargill, advised that while the requested timing was tight given the new information contained in the cash flows provided, Cargill

was prepared to move quickly to work with the Company in connection with such important matters. A copy of such email is attached hereto as Exhibit “E”.

15. On the evening of Monday, February 26, 2024, Greenhill (financial advisor to Tacora) reached out to Jefferies (financial advisor to Cargill) to advise that the Company would be seeking to increase the amount of its requested DIP increase by a further \$20 million. On Tuesday, February 27, 2024, at 3:19 a.m., the Monitor provided to Cargill revised cash flow forecasts, with a “revised requirement [of] approximately \$52.5, an additional \$20m over the amount requested last week on February 20.” A copy of such email is attached hereto, without attachments, as Exhibit “F”.

16. Cargill had been prepared to respond to the Company’s original DIP funding amendment request, and based on the revised request, was required to seek further internal approvals in connection with such increased DIP amount.

17. On Wednesday February 28, 2024 at 12:04 p.m., Goodmans, on behalf of Cargill, provided Cargill’s proposal in connection with Tacora’s requested DIP amendment, agreeing to provide the full requested incremental DIP amount of \$52.5 million. A copy of such email, including the attached proposal, is attached hereto as Exhibit “G”. In its letter, Goodmans, on behalf of Cargill, again encouraged the Company to advance with Cargill contingency alternatives and value maximizing routes as Cargill continued to remain of the view that the Company’s proposed AHG Reverse Vesting Transaction cannot be approved for the many reasons that had previously been outlined to Tacora and its advisors.

18. Tacora responded to Cargill's DIP proposal two days later on Friday, March 1, 2024, with a mark-up of the Cargill DIP Agreement to reflect the Company's proposed changes, which included the following key items:

- (a) an increase of the total DIP facility from \$75 million to \$127.5 million, as Cargill had agreed to provide;
- (b) a request to increase the limit under the OPA¹ to 500,000DMT from 400,000DMT through the Maturity Date of the Cargill DIP Agreement;
- (c) removal of any and all obligations under the Cargill DIP Agreement to continue to honour and comply with Cargill's Offtake Agreement and OPA in all circumstances; and
- (d) a request for a reduced exit fee on the incremental DIP financing amount than had been originally proposed by Cargill.

A copy of such email is attached hereto, with attachments, as Exhibit "H".

19. Goodmans responded on behalf of Cargill that it would work to review the proposed amendments to the Cargill DIP Agreement. A copy of such email is attached hereto as Exhibit "I".

20. Early on Monday, March 4, 2024, Goodmans, on behalf of Cargill, provided a revised form of the Cargill DIP Agreement, accepting or addressing in part a number of the changes made by

¹ The OPA is also referred to as the "Stockpile Agreement" in the Cargill March 1 Affidavit, or the "Onshore Agreement" in the Broking Affidavit.

Tacora, including agreeing to increase the limit under the OPA to 500,000DMT from 400,000DMT until the end of April and reducing the exit fee on the incremental DIP financing amount. A copy of Cargill's proposal is attached hereto as Exhibit "J".

21. Two days later, Tacora had not acknowledged or responded to Cargill's proposal. Goodmans followed up for an update. A copy of such email is attached hereto as Exhibit "K".

22. Later that day, Stikemans provided a response to Cargill's proposal, that was marked "Without Prejudice", with two general matters to address.

23. Shortly thereafter, at 5:51 p.m., Stikemans followed up with an email advising that "we intend to review again with the Board during the day tomorrow and need a response as soon as possible, but tomorrow morning at latest." A copy of such email is attached hereto as Exhibit "L".

24. Cargill, with the assistance of its advisors, worked expeditiously to review the revised proposal from Tacora and responded the next morning, on Thursday, March 7, 2024 at 10:01 a.m., to address the two remaining matters raised by Tacora:

- (a) with regards to the first matter, Cargill agreed to confirm that CITPL would pay for all amounts under the Offtake Agreement or the OPA without setting off any damages claims that CITPL may have for the duration of the term of the Cargill DIP Agreement, provided the damages were the result of treatment of the Offtake Agreement and OPA pursuant to a Court Order, whether pursuant to a valid disclaimer (if available), or otherwise (rather than unilateral breaches by Tacora);
and

- (b) with regards to Tacora's request for full ability to cease any and all compliance under the Offtake Agreement and OPA (notwithstanding Tacora's request from Cargill under the same agreement to increase limits under the OPA), Cargill agreed that a disclaimer, termination, suspension, default or breach of the Offtake Agreement or OPA would **not** result in a breach of or an Event of Default under the Cargill DIP Agreement, to the extent such disclaimer, termination, suspension, breach or default was completed pursuant to a Court approved disclaimer.

A copy of such email, with attachments, is attached hereto as Exhibit "M".

25. Given the concessions by Cargill to provide flexibility to Tacora under the Cargill DIP Financing relating to steps to disclaim or terminate the Offtake Agreement and OPA, in the interest of stability and time to properly hear the disputes in front of this Court, Cargill is particularly troubled by the misleading and inaccurate statements in the Broking Affidavit made with respect to the negotiations and ultimate results around this requested provision.

26. Having been advised that Tacora's board of directors intended to meet on the afternoon of Thursday, March 7, 2024, and having not heard anything by the morning of Friday, March 8, 2024, Goodmans on behalf of Cargill followed up with Stikemans. Stikemans did not respond.

27. On Saturday, March 9, 2024, Goodmans on behalf of Cargill followed up with Stikemans again. A copy of such email is attached hereto as Exhibit "N".

28. I am advised by Mr. Robert J. Chadwick of Goodmans that Goodmans spoke with Stikemans later that day, and Stikemans advised that the Company would be proceeding with replacement DIP financing to be provided by the AHG.

29. On Sunday, March 10, 2024, Cargill received a copy of the proposed DIP financing agreement in respect of the AHG Replacement DIP Financing (the “**AHG Replacement DIP Agreement**”) and a draft affidavit of Mr. Broking in respect thereof.

30. To my knowledge, that is the full extent of the “negotiations” and the Company’s efforts to advance amended Cargill DIP Financing. I note that, other than the one request to reduce the exit fee on the incremental requested DIP financing, which Cargill addressed, it is particularly disturbing to Cargill as the current DIP Lender, that the Company at no time raised any concerns or issues, or sought to negotiate, discuss, or schedule any call or in-person exchange in any way regarding any of the other economic terms of the Cargill DIP Financing with Cargill or, to my knowledge, Cargill’s advisors.

IV. KEY ISSUES REGARDING THE PROPOSED AHG REPLACEMENT DIP AGREEMENT

31. Cargill believes that the proposed AHG Replacement DIP Financing is an inferior proposal compared to the proposal for an amended Cargill DIP Agreement submitted by Cargill (the “**Cargill Amended DIP Proposal**”) based on a number of factors (discussed further herein), and believes that the proposed AHG Replacement DIP Financing is not only unnecessary and creates additional litigation that could have been avoided by the Company, but is significantly prejudicial to Cargill and other stakeholders. Cargill believes that the steps the Company has taken and its stated position with respect to the AHG Replacement DIP Financing clearly demonstrate the tunnel vision the Company and its advisors have succumbed to with respect to proceeding with the AHG Reverse Vesting Transaction, and are an example of the repeated manufacturing of a crisis of timing or financing through the Company’s own actions and the behavior of its advisors.

32. Cargill has a number of key concerns with regards to the AHG Replacement DIP Financing and the Company's DIP Replacement Motion, in respect of certain fundamental terms of the proposed AHG Replacement DIP Financing, the process leading to the selection by the Company of the proposed AHG Replacement DIP Financing, and a number of misleading or inaccurate statements in the Broking Affidavit.

Significantly Higher DIP Amount

33. Proceeding with the AHG Replacement DIP Financing has resulted in the Company proceeding with DIP financing of up to \$188 million, being an additional \$60.5 million of DIP borrowings that would not otherwise be required if the Company proceeded with the Cargill Amended DIP Proposal, as the Company would have the benefit of the extended OPA and Post-Filing Credit Extensions of \$20 million. This results in incremental interest expense on such additional \$60.5 million of funding, and an incremental \$40.5 million of super-priority debt ranking ahead of the creditors of Tacora. Somewhat surprisingly, Mr. Broking concludes at paragraph 16(a) of his affidavit that this increased borrowing is somehow a "key enhancement" that "benefit[s] the Company". Cargill, with its deep involvement in this case and understanding of Tacora, has serious concerns that (and sees no plausible explanations how) the Company's CEO and its board of directors, with their fiduciary duties, could come to such a conclusion. Mr. Broking acknowledges in his affidavit at paragraph 16(a) that the liquidity available under each of AHG Replacement DIP Financing and the Cargill Amended DIP Proposal is "substantially similar". However, as noted above, the AHG Replacement DIP Financing results in a materially higher amount of priming secured debt as against the Company. Mr. Broking himself notes at paragraph

10 of his affidavit that “[a]dding additional debt on Tacora during the CCAA Proceedings will result in less capital being available for these capital investments upon emergence.”

34. Meanwhile, under the Cargill Amended DIP Proposal, which only required an aggregate DIP financing amount of \$127.5 million, provides the Company with continued access to the OPA and up to \$20 million of Post-Filing Credit Extensions. In addition, Cargill agreed to increase the availability under the OPA by 100,000 DMT to an aggregate of 500,000 DMT pursuant to the Cargill Amended DIP Proposal, which, based on current iron ore pricing, is equivalent to approximately \$10 million of additional priming DIP financing that would instead be required under the AHG Replacement DIP Financing.

Increased Aggregate Fees

35. The AHG Replacement DIP Financing results in a fee of \$2.42 million, plus an additional incremental fee of \$2.42 million should the Company seek to extend the term of the AHG Replacement DIP Financing from June 1 to June 30, 2024. Meanwhile, the incremental DIP financing under the Cargill Amended DIP Proposal would have only resulted in a fee of \$1.05 million, with the DIP financing under the Cargill Amended DIP Proposal having a term ending in October 2024. The difference in the fees between the AHG Replacement DIP Financing and the Cargill Amended DIP Proposal is approximately \$4 million (i.e. the fees under the AHG Replacement DIP Financing are approximately 400% the fees under the Cargill Amended DIP Proposal).

36. It is important to note that the Company took the position that the initial fee proposed by Cargill of \$1.575 million was “excessive given the anticipated short term nature of this DIP

facility”, but appears to believe that the close to potentially \$5 million fee under the AHG Replacement DIP Financing is acceptable and one of the other “key enhancements that benefit the Company.”

37. In addition, the Company notes that the AHG Replacement DIP Financing would result in a further incremental fee to Tacora’s financial advisor, Greenhill, of approximately \$400,000, and based on the AHG DIP Budget (as defined below), payments of materially higher professional costs.

Poison Pill Feature

38. The Company states that one of the key features of the AHG Replacement DIP Financing is the option to equitize the exit fee (and extension fee if earned) and accrued interest. This is only a potential benefit in the sole circumstance where the AHG Reverse Vesting Transaction is approved and implemented. It is not a benefit in all circumstances. The AHG Reverse Vesting Transaction has not been approved by the Court, and remains opposed by Cargill, who believes that such a reverse vesting transaction cannot be approved in the circumstances of this case.

39. In addition, equitizing the exit fee only in the scenario where the AHG Reverse Vesting Transaction is successful is akin to the AHG paying themselves and, conversely, charging an exit fee of potentially up to approximately \$5 million dollars in any other scenario is not fair or reasonable.

40. The increased incremental costs of the AHG Replacement DIP Financing, combined with the equitization of these amounts solely in the circumstance of the AHG Reverse Vesting Transaction, effectively create a poison pill feature under the AHG Replacement DIP Financing

that seeks to make it more difficult to implement a potential alternative transaction that would otherwise be beneficial to the Company's stakeholders.

41. In assessing and determining which DIP proposal to accept, Tacora should have taken a balanced approach and taken into account the effects of such DIP proposals on its stakeholders in all scenarios and alternatives, and not limited to solely its proposed AHG Reverse Vesting Transaction which remains subject to Court approval and opposition from a key and significant stakeholder.

42. In addition, by accepting this "poison pill" feature of the AHG Replacement DIP Financing, Tacora acted in direct contravention of its own counsel's instructions in their email of February 21, 2024 (discussed above), which stated explicitly that DIP proposals should not be in any way linked to the SISP. Tacora breached its own DIP requirements in order to try to create an unfair advantage in connection with seeking this Court's approval of its proposed AHG Reverse Vesting Transaction, which is opposed by Cargill.

Flexibility regarding the Offtake Agreement

43. As discussed in paragraph 24 above, the Broking Affidavit mischaracterizes the extent of the added flexibility that the AHG Replacement DIP Financing provides with regards to Tacora's ability to take steps to terminate, suspend or disclaim the Offtake Agreement. Under the Cargill Amended DIP Proposal, Cargill agreed that Tacora could take all such steps pursuant to a Court approved disclaimer, and that any steps to obtain such a disclaimer would not constitute a default under the Cargill DIP Financing. The Broking Affidavit states that the "Company attempted to

negotiate the removal of this event of default but was unsuccessful.” That is not correct – as Cargill did agree to the foregoing changes.

Significantly Reduced Maturity and Runway

44. The AHG Replacement DIP Financing has a maturity of June 1, 2024, with the ability for the Company to obtain a 30-day extension to June 30, 2024, for a significant additional fee of approximately \$2.42 million. This greatly reduces the current maturity of the existing Cargill DIP Financing in place, which has a term to October 10, 2024 (and which continued to apply under the Cargill Amended DIP Proposal), thereby reducing flexibility and optionality for the Company, and instead placing increased pressure and time restraints on the Company to complete these CCAA proceedings.

Tunnel Vision and Improper Consideration of Impact on Stakeholders

45. As discussed in the Cargill March 1 Affidavit, Cargill is concerned that Tacora is seeking to manufacture a situation where it can try to claim that its proposed reverse vesting transaction with the AHG is the only available transaction, while there are other alternatives as well as contingency planning steps and actions that continue to remain available to the Company to advance.

46. Cargill’s concern is further increased by the Company’s current DIP Replacement Motion, which seeks to approve the AHG Replacement DIP Financing, which seeks to reduce runway, increase costs, and make it more difficult to complete an alternative transaction that Cargill believes would be more beneficial to the Company and its stakeholders.

47. The limited engagement by Tacora and its advisors with Cargill and its advisors as part of the process to advance DIP alternatives is further indicative of the Company's tunnel vision approach at this stage of its CCAA proceedings.

48. I believe that Tacora and its advisors have again failed to properly consider the impacts of their decisions and actions on Tacora's stakeholders, including Cargill.

49. Rather than seeking to find consensual solutions and paths to maximize value for all stakeholders, the Company instead seems to be shutting doors and seeking to eliminate potential options, particularly in the circumstance where the Court does not approve the AHG Reverse Vesting Transaction.

Added Costs and Issues with Cash Flows

50. I have reviewed the cash flow forecasts that the Monitor provided to Cargill on behalf of Tacora in connection with Tacora's DIP process (the "**Cargill DIP Cash Flows**"), and the cash flow forecast attached to the AHG Replacement DIP Agreement (the "**AHG DIP Cash Flows**").

51. It appears that the total professional costs in the AHG DIP Cash Flows are approximately \$4 million higher (approximately 80% higher) in connection with the AHG Replacement DIP Financing compared to the Cargill DIP Cash Flows.

52. In addition, the average individual DIP draw under the Cargill DIP Cash Flows was between \$14.5 million and \$18 million, compared to certain individual DIP draws under the AHG Replacement DIP Financing of \$32.75 million and \$38 million per draw. Where interest is only payable on amounts actually advanced to Tacora, such higher DIP draw amounts under the AHG Replacement DIP Financing attract greater interest expenses for Tacora. In total, the AHG DIP

Cash Flows indicate approximately \$38.25 million more drawn than under the Cargill DIP Cash Flows.

53. The cash balance amount held by Tacora each week averages approximately \$22 million per week in the Cargill DIP Cash Flows compared to the average ending cash balance per week in the AHG DIP Cash Flows of approximately \$36 million (which is also materially higher than the amount of cash that has been held on average by Tacora during these CCAA proceedings to date). Such structure under the AHG Replacement DIP Financing is costly to Tacora, less cost effective than the Cargill DIP Financing, and materially different from the information provided to Cargill as part of the DIP process.

54. A summary comparison of the foregoing items is set out in the table below:

Comparison (\$Thousands)	2/26 DIP Budget	Monitor's Report	Variance
Professional Fees	5,893	9,999	4,106
Average Draw Amounts	13,125	22,688	9,563
Minimum Net Cash Flow	(8,906)	(16,243)	(7,337)
Average Cash Balance	22,424	36,246	13,822
1st Draw			
Date	03/24/24	03/24/24	
Amount	14,500	32,750	18,250
2nd Draw			
Date	04/07/24	04/14/24	
Amount	15,000	38,000	23,000
3rd Draw			
Date	45410	45417	
Amount	18,000	15,000	(3,000)
4th Draw			
Date	45431	45431	
Amount	5,000	5,000	0
Total Draw	52,500	90,750	38,250

V. CARGILL DIP CROSS-MOTION, TIMING AND NEXT STEPS

55. I am advised by Mr. Chadwick of Goodmans, that as early as January, Goodmans raised on behalf of Cargill the need for Tacora and its advisors to consider proper notice and scheduling of a motion that would seek to extend the stay of proceedings and increase the size of DIP financing for Tacora. I am further advised that such matters were raised by Goodmans on behalf of Cargill several times in connection with the scheduling of the Company's motion to seek approval of its proposed AHG Reverse Vesting Transaction, including in Cargill's Notice of Motion in respect of its preliminary threshold motion and in Cargill's Aide Memoire, each filed on February 5, 2024, copies of which is attached hereto as Exhibit "O" and Exhibit "P", respectively. I understand that the Company refused at all times to set any schedule in connection therewith.

56. Tacora served its motion record in respect of its DIP Replacement Motion on Monday, March 11, 2024, for a hearing scheduled to be heard on Monday, March 18, 2024. This does not provide the parties with sufficient time to address a proper litigation schedule, including conducting necessary examinations, in the limited time frame.

57. Tacora would have known that based on the nature of the proposed AHG Replacement DIP Financing, including the "poison pill" feature, that the matter could not proceed on consent and would be opposed by Cargill.

58. In fact, the Monitor notes in its Third Report dated March 13, 2024 (the "**Monitor's Third Report**") that "it is expected that any DIP financing selected by the Applicant would be contested by the party whose financing was not ultimately selected, resulting in the potential delays and the incurrence of additional professional fees attendant to same" and that "[t]hese additional costs have been factored into the cash flow forecasts upon which the Applicant seeks an extension of the Stay

Period.” So while Tacora appears to have been fully aware of and expected issues in connection with its DIP Replacement Motion, and even factored in the additional litigation costs into its proposed cash flow forecast that has been filed with the Court, it has nonetheless continued to resist at all times providing proper time for the parties to properly address this material issue before the Court.

59. Accordingly, as part of Cargill’s requested relief under the Cargill DIP Cross-Motion, Cargill is seeking an adjournment of the DIP Replacement Motion until the week of April 2, 2024, or alternatively to a date after the RVO Motion and Cross-Motion Hearing, with a litigation schedule in respect of the Company’s DIP Replacement Motion and the Cargill DIP Cross-Motion as agreed to by Tacora, the Monitor, the AHG and Cargill, or such other schedule as may be ordered by the Court. While Cargill would be prepared to address the matters in respect of the Company’s DIP Replacement Motion and the Cargill DIP Cross-Motion during the week of April 2, 2024, the benefits of deferring such motions to after the RVO Motion and Cross-Motion Hearing would be that this would remove the hypothetical around the “poison pill” feature of the AHG Replacement DIP Financing, and the Court would have the benefit of the full facts and implications to the Company and its stakeholders of the true costs and impacts of the AHG Replacement DIP Financing.

60. In connection with such adjournment, Cargill is willing to advance to Tacora additional interim amounts under the existing Cargill DIP Financing in an amount to be agreed to by Tacora, the Monitor and Cargill, on the substantially the same terms as the Cargill Amended DIP Financing, other than there would be no additional fees for the interim advance during the interim period, pending the return of the Company’s DIP Replacement Motion and the Cargill DIP Cross-

Motion. A copy of the proposed amended Cargill DIP Agreement (the “**Cargill Interim Amended DIP Agreement**”) reflecting such interim Cargill DIP Financing (the “**Cargill Interim Amended DIP Financing**”) is attached hereto as Exhibit “**Q**”.

61. Cargill understands that based on the Company’s cash flows, the Company would require approximately an additional \$30 million of interim DIP financing for the period up to the RVO Motion and Cross-Motion Hearing if it proceeded with the Cargill Interim Amended DIP Financing. Cargill is willing to fund such amount under the Cargill Interim Amended DIP Agreement (or such other amount as may be agreed to by the Company, the Monitor and Cargill).

62. In the alternative to the foregoing adjournment and interim approval of the Cargill Interim Amended DIP Financing, Cargill seeks pursuant to the Cargill DIP Cross-Motion the approval of amended Cargill DIP Financing (the “**Cargill Amended DIP Financing**”) on the terms set out in the amended form Cargill DIP Agreement (the “**Cargill Amended DIP Agreement**”), a copy of which is attached hereto as Exhibit “**R**”, on the consent of Tacora, the Monitor, the AHG and Cargill. The Cargill Amended DIP Agreement is on substantially the same terms as the Cargill Amended DIP Proposal, subject to the following main additional amendments:

- (a) the exit fee in respect of any incremental amounts funded under the Cargill Amended DIP Financing would not be payable in the event that the Company successfully implements the AHG Reverse Vesting Transaction;
- (b) from and after approval of the Cargill Amended DIP Financing, the Company shall have the right to pay interest on the entire Cargill Amended DIP Financing in kind,

with such amounts only payable on maturity or termination of the Cargill Amended DIP Financing; and

- (c) advances under the Cargill Amended DIP Financing shall be available to the Company as contemplated under the DIP budget when the Company's cash on hand falls below \$15,000,000 (as Cargill understands the Company seeks to maintain a minimum liquidity of at least \$10,000,000).

63. Given the material discrepancies between the Cargill DIP Cash Flows provided to Cargill by the Monitor on behalf of the Company, and the AHG DIP Cash Flows included with the AHG Replacement DIP Agreement and in the Monitor's Third Report, whether in connection with the Cargill Interim Amended DIP Financing or the Cargill Amended DIP Financing, Cargill will work with the Company and the Monitor to address any appropriate adjustments to the AHG DIP Cash Flows that may be applicable in connection with the Cargill Interim Amended DIP Financing or the Cargill Amended DIP Financing.

64. A summary table comparing the interest expense and fees under the AHG Replacement DIP Financing as against the Cargill Amended DIP Financing is set out below:

(\$USD Millions)	05/19/24			06/02/24		
	Noteholder DIP	Cargill DIP	Variance	Noteholder DIP	Cargill DIP	Variance
Noteholder Proposed Transaction (RVO)						
Interest Expense ⁽¹⁾	2.4	1.6	(0.8)	3.1	2.1	(1.0)
Exit Fees / Extension Fee ⁽²⁾⁽³⁾	2.4	–	(2.4)	4.8	–	(4.8)
Subtotal - DIP Interest & Fees	\$4.8	\$1.6	(\$3.2)	\$8.0	\$2.1	(\$5.8)
Incremental Professional Fees ⁽⁴⁾	4.1	–	(4.1)	4.1	–	(4.1)
Aggregate DIP Advances	188.0	127.5	(60.5)	188.0	127.5	(60.5)
Other Alternative Transactions (No RVO)						
Interest Expense ⁽¹⁾	2.4	1.6	(0.8)	3.1	2.1	(1.0)
Exit Fees / Extension Fee ⁽²⁾⁽³⁾	2.4	1.1	(1.4)	4.8	1.1	(3.8)
Subtotal - DIP Interest & Fees	\$4.8	\$2.7	(\$2.1)	\$8.0	\$3.2	(\$4.8)
Incremental Professional Fees ⁽⁴⁾	4.1	–	(4.1)	4.1	–	(4.1)
Aggregate DIP Advances	188.0	127.5	(60.5)	188.0	127.5	(60.5)

(1) Interest expense calculated based on 10% per annum cash interest rate under both Proposals; assumes 3/24/2024 issuance date for illustrative purposes.

(2) Noteholder DIP Proposal includes a ~\$2.42mm Exit Fee under a 5/19/2024 Repayment Date scenario and a ~\$2.42mm Exit Fee plus a ~\$2.42mm Extension Fee under a 6/2/2024 Repayment Date scenario; Exit Fee and Extension Fee to be equitized under a successful Noteholder Proposed Transaction scenario.

(3) Cargill DIP Proposal includes zero incremental exit fees under a successful Noteholder Proposed Transaction scenario and a \$1.05mm incremental exit fee (the "Subsequent Exit Fee") under a scenario where the Noteholder Proposed Transaction is unsuccessful.

(4) Based on a comparison of the aggregate 'Restructuring Legal and Professional Costs' in the DIP Budget included in the Third Report of the Monitor vs. the DIP Budget provided to Cargill on 2/27/2024; includes the periods from week ended 3/10/2024 through week ended 5/19/2024.

65. Cargill has been the DIP Lender to Tacora since the commencement of the CCAA proceedings. No parties have filed any materials that evidence that the Cargill DIP Financing has not served Tacora and its stakeholders well. Cargill believes that its requested relief under the Cargill DIP Cross-Motion puts the Company in a better financial position given the significantly lower level of overall priming secured debt, and the reduced fees, interest and expenses during this critical time. It protects the interests of all parties, is not prejudicial to the Company or the AHG (including not providing any poison pills or embedded advantage to one party over the other), provides stability to Tacora, and does not try to influence an outcome on a transaction that remains

subject to approval by this Court. In essence, Cargill believes that the Cargill DIP Cross-Motion provides for a proper balance of the interests of all parties.

VI. CONCLUSION

66. Cargill has consistently sought to stabilize Tacora's operations, provide Tacora with additional funding and overall liquidity, and assist Tacora to improve its operations. These steps included, without limitation, investing in Tacora preferred shares so that Tacora could pay interest to the noteholders in 2022, entering into the APF in January 2023, entering into the Wetcon Agreement in the fall of 2023, prepaying certain amounts due to Tacora in 2023, entering into the Cargill DIP Agreement in October 2023, and amending the OPA in December 2023. All of these steps benefitted Tacora and its stakeholders, including by providing Tacora with liquidity, including in circumstances when Tacora was unable to otherwise access such funding. Cargill has a long history of working with Tacora in a positive and constructive way to find balanced and reasonable solutions.

67. Cargill agreed to provide Tacora with an additional \$52.5 million of incremental DIP funding under the Cargill Amended DIP Proposal in the same spirit, and remains willing and able to do so pursuant to the Cargill Amended DIP Agreement attached hereto.

68. Cargill continues to desire to work constructively with Tacora, and we encourage Tacora and its advisors to work with Cargill on dual track consensual alternatives to ensure protection for all stakeholders, rather than the current tunnel vision and manufactured crisis approach towards a reverse vesting transaction that Cargill believes cannot be completed. All stakeholders deserve due process as part of these CCAA proceedings. Cargill believes that Tacora's current tactics and

approach are creating significant additional costs and will result in prejudice to stakeholders if contingency plans are not advanced by the Company.

69. Tacora has moved away from trying to find solutions or to seek relief from the Court on consent of its stakeholders. This is very troubling to Cargill as a significant stakeholder. Tacora appears to be taking aggressive and hostile steps to seek to win at all costs in respect of its AHG Reverse Vesting Transaction. It is attempting to step over the interests of Cargill. Cargill has worked constructively with and supported Tacora since its inception, in a fair and reasonable way. Unfortunately, this has not been reciprocated by Tacora during these CCAA proceedings. The proposed AHG Replacement DIP Financing, with higher costs and expenses, less flexibility, shorter duration, more distraction, litigation and wasted resources, and incorporating a “poison pill” structure, is not fair or reasonable, and unduly prejudices Cargill and other stakeholders.

SWORN remotely by Matthew Lehtinen stated as being located in the City of Carmel in the State of Indiana, before me at the City of Toronto, in the Province of Ontario, on March 14, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

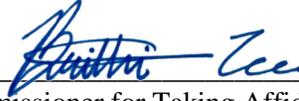


Commissioner for Taking Affidavits

Matthew Lehtinen

LSO #85001P

**THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14th DAY OF MARCH, 2024**



Commissioner for Taking Affidavits

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

**AFFIDAVIT OF MATTHEW LEHTINEN
Sworn March 1, 2024**

I, Matthew Lehtinen, of the City of Carmel, in the State of Indiana, make oath and say:

1. I am employed by Cargill, Incorporated (“**Cargill Inc.**”) as the Customer Manager Americas in respect of its metals business. As such, I have personal knowledge of the matters deposed to herein. To the extent that information has been provided to me by others, I have specified the source of that information. In each case, I believe the information I refer to is true. Nothing in this affidavit is intended to limit or waive privilege.

2. Cargill Inc. is a privately-held Delaware company. It has been in operation for 150 years and currently operates in 70 countries with over 155,000 employees. It provides food, agriculture, financial and industrial products and services throughout the world.

3. Cargill International Trade PTE Ltd. (“**CITPL**”, and together with Cargill Inc., “**Cargill**”) is a Singapore company. Singapore is the headquarters of Cargill’s metals business, which has more than 40 years of experience in the ferrous industry. It provides a broad range of marketing,

risk management and financial solutions. Each year Cargill moves around 50 million tons of physical iron ore and 6 million tons of physical steel globally.

4. Prior to joining Cargill, I was a co-founder, was initially the President and Chief Operating Officer, and was subsequently the Chief Commercial Officer, of Tacora Resources Inc. (“**Tacora**”). I was heavily involved in the process by which Tacora purchased the Scully Mine in 2017 in an asset purchase transaction out of a previous insolvency process under the *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the “**CCAA**”), and by which Tacora restarted mining operations at the Scully Mine in July of 2019.

5. I left Tacora in January 2020 and became a consultant and exclusive agent to Cargill in November 2020 to assist with business opportunities in North America other than Tacora.

6. I was hired by Cargill in August 2023 as a full-time senior employee, and began to work on Tacora matters upon my hiring in my role at Cargill’s metals business.

I. OVERVIEW

7. Cargill has been a key partner and important source of financial support for Tacora since its inception. Cargill is Tacora’s offtake and technical marketing provider under the Offtake Agreement (as defined below) that was negotiated in April of 2017. Cargill is or has also been party to other key related agreements and arrangements with Tacora including: (i) multiple working capital facilities to optimize Tacora’s operations, working capital, cash flow and liquidity (including under the APF, the Stockpile Agreement and the Wetcon Agreement (all as defined below)), (ii) as provider of a hedging program in a cost efficient and beneficial manner for Tacora, and (iii) as provider of operational expertise and assistance at the Scully Mine. As part of Tacora’s

CCAA proceedings, Cargill has also provided debtor-in-possession financing to Tacora. Cargill also (directly and/or indirectly) holds common shares and preferred shares of Tacora, and, until recently, Cargill employees served as technical and business advisors to Tacora in addition to serving as the acting general manager of operations of Tacora.

8. Cargill has, for an extended period of time, worked to assist Tacora and to provide stability and funding to Tacora for its operations particularly when alternative sources of liquidity were not available, including investing in preferred shares in November 2022 to facilitate Tacora's payment of interest under its senior secured notes, entering into the APF in January 2023, entering into the Wetcon Agreement in the fall of 2023, and prepaying certain amounts prior to them being due to Tacora in the fall of 2023, in each case for the benefit of Tacora and its stakeholders. Cargill has a long history of working with Tacora in a positive and constructive way to find balanced and reasonable solutions.

9. Pursuant to Tacora's SISP (as defined below) in these CCAA proceedings, Cargill advanced the Cargill Recapitalization Transaction (as defined below) in the same spirit of working with Tacora to find a fair and balanced solution, and proposed a transaction and structure which Cargill believes maximizes value for all stakeholders.

10. Unfortunately, Tacora failed to use the SISP to achieve a consensual or value maximizing transaction that respects the interests of all stakeholders, including Cargill. In particular, in the SISP, Tacora and its advisors (a) failed to properly consider Cargill as a key and material stakeholder of Tacora and the impacts on Cargill of the proposed reverse vesting transaction that Tacora now advances, (b) failed to properly engage with Cargill and its advisors on the Cargill Recapitalization Transaction and seek solutions for the benefit of Tacora and all of its stakeholders,

(c) failed to seek to explore all available alternatives and to work on advancing potential solutions that would provide better results and value for the benefit of Tacora and all of its stakeholders, (d) elected to not use its discretion within the SISP to extend timelines required to commit new third party capital providers in the short SISP time period (which overlapped with holidays including Christmas and New Year), and (e) failed to engage to seek a potential consensual resolution among its stakeholders.

11. Rather, Tacora selected a transaction that assumes and requires the availability of a reverse vesting order to rid Tacora of the Offtake Agreement and at the same time deprive Cargill of a claim for damages in respect of the Offtake Agreement. Tacora accepted the reverse vesting order-based offer, not as a last resort after exploring alternative transactions to avoid the need for a reverse vesting order, but as its first choice.

12. Cargill made multiple efforts to advance alternative transaction terms and structures with Tacora in order to maximize value for all stakeholders, but these invitations were not pursued by Tacora despite having the opportunity to do so, including in November 2023 at the beginning of the SISP, after phase 1 bids were submitted on December 1, 2023, or during phase 2 of the SISP. Cargill believes that its proposed alternatives, including the Cargill Recapitalization Transaction pursuant to Cargill's ultimate phase 2 bid, had merit and should have been explored by Tacora with Cargill. Cargill received little to no engagement from Tacora to solve problems or to create a consensual solution for its stakeholders during the CCAA proceedings.

13. Cargill securing an equity investment in Tacora from a new third party, with little or no previous connection with Tacora, is achievable but takes time. Such time was needed in this CCAA of Tacora given factors like Tacora's revenues being dependent on volatile iron ore pricing,

Tacora's requirement for significant capital expenditures, and Tacora's business plan that (compared to historical performance) requires material improvements in production and cost. While it was unfortunate that Cargill was unable to secure committed third party funding for its bid by January 19, 2024, that outcome should not have been surprising and should not have prevented Tacora and its advisors from continuing to work with Cargill after January 19 to pursue a value maximizing transaction, considering the progress that Cargill was continuing to make with potential investors and Cargill's historical and deep commitments to Tacora.

14. In proceeding down this path, Tacora has put itself and its stakeholders (including Cargill) at significant risk of material prejudice. Tacora has further exacerbated this situation by not selecting any back-up bid transaction pursuant to its SISP or, to my knowledge, advancing any contingency plans in the circumstance where Cargill and its advisors have communicated to Tacora many times throughout the course of these CCAA proceedings that Cargill strongly believes that a reverse vesting structure that seeks to leave behind the Offtake Agreement cannot be approved by the Court without the consent or agreement of Cargill.

15. Cargill has serious, material concerns over the conduct of the SISP by Tacora and its advisors, as discussed in further detail below. Among other things, the process as conducted by Tacora and its advisors created numerous challenges, delays and obstacles for bidders to successfully obtain third party financing within the limited timeframe available. The lack of dialogue and engagement with Cargill and its advisors after the submission of Cargill's phase 2 bid is also concerning to Cargill. I believe that Tacora did not fully and properly consider the Cargill Recapitalization Transaction or take suitable steps to obtain the benefits associated with it.

16. It is my strong belief that Tacora has manufactured a situation where it can try to claim that its proposed reverse vesting transaction is the only available transaction, including by Tacora not selecting a back-up bid and not advancing contingency steps towards an asset sale or CCAA plan transaction. It is not the case that there are no other superior alternatives available to Tacora in the circumstances. Tacora and its advisors have simply failed to properly consider and advance such alternatives that could have maximized value for Tacora and resulted in a better, consensual transaction for its stakeholders.

17. Tacora's actions will create significant prejudice to Cargill. Tacora has selected a reverse vesting transaction that, if implemented on its proposed terms, would "transfer" the Offtake Agreement to a shell company, which would have the effect of creating a claim under the Offtake Agreement that would exceed \$500 million and leave Cargill as the only creditor not being satisfied pursuant to the proposed transaction.¹ Tacora failed to take into account the impact of such a proposed transaction on Cargill and weigh that against potential alternatives, as based on the proposed transaction, Cargill became the fulcrum-affected party.

18. Accordingly, and as discussed further herein, it is Cargill's view that Tacora's proposed reverse vesting transaction should not be approved based on all of the facts and circumstances. Cargill is therefore requesting the Court to, among other things, advance Cargill's proposed CCAA Plan (as defined and described further below). Cargill believes the CCAA Plan provides a significantly superior alternative to the proposed reverse vesting transaction, does not seek to

¹ Unless otherwise noted, all references to dollar amounts in this affidavit are to U.S. dollars.

isolate and prejudice a single key creditor, and rather seeks to satisfy all secured claims in full and provides significant if not full recovery to all of Tacora's unsecured creditors.

II. THE PREVIOUS SALE OF THE SCULLY MINE

19. The Scully Mine was previously sold pursuant to an asset sale transaction in the course of the CCAA proceedings of, among others, Bloom Lake General Partner Limited, Cliffs Quebec Iron Mining ULC, and Wabush Resources Inc. The asset sale transaction was approved by the Superior Court of Quebec.

20. In June 2017, as part of those CCAA proceedings, Tacora, as purchaser, and certain of the CCAA parties, as vendors, entered into an asset purchase agreement for the sale of the Scully Mine. The asset purchase agreement provided for a number of closing conditions, including, among other things:

- (a) a requirement that Tacora obtain replacement financial assurance in respect of its closure plan, which was to be satisfactory to the Government of Newfoundland and Labrador;
- (b) the granting of any consents or approvals necessary for the assignment or transfer of certain permits and licenses to Tacora; and
- (c) approval pursuant to the *Mining Act* (Newfoundland and Labrador).

21. That transaction closed in July 2017, six weeks after the execution of the asset purchase agreement.

22. In that same CCAA proceedings, the CCAA debtor completed another asset sale transaction for a similar iron ore mine named Bloom Lake, which was sold to Champion. That asset sale transaction closed in April 2016.

III. CARGILL'S AGREEMENTS WITH TACORA

23. Cargill is a party to numerous material agreements with Tacora. I have been advised of, and verily believe, some of the information regarding the agreements with Tacora by Alanna Weifenbach, Finance Director, Metals and Trade & Capital Markets at Cargill and by Philip Mulvihill, Investments and Structuring Lead at Cargill.

24. There is an offtake agreement between Tacora, as seller, and CITPL, as buyer, of 100% of the iron ore concentrate production at the Scully Mine, dated April 5, 2017 and restated on November 11, 2018, and as further amended from time to time (the “**Offtake Agreement**”). The Offtake Agreement was amended in 2020 to last for the life of the Scully Mine.

25. In order to restart mining operations at the Scully Mine, in 2018 and 2019 Tacora raised approximately \$140 million of equity and \$120 million of debt. The original Offtake Agreement was in place before this equity was raised. The November 11, 2018 amendment to the Offtake Agreement was negotiated in conjunction with the equity raise and in consideration for Cargill investing approximately \$20 million of equity capital in Tacora.

26. As explained further below, there are various payments made among Tacora and Cargill which stretch out over many months in respect of each specific iron ore shipment, since there is a gap of many months between when Cargill makes a first payment for the iron ore, and when there is a final reconciliation after the iron ore has been sold to a third party. Given the volatility of the

underlying price index, the Offtake Agreement requires not-yet finalized invoices be marked to market twice per week. Changes in the mark to market are settled in cash by either party. The margining facility under the Offtake Agreement provides that if Tacora owes amounts to Cargill under this mechanism, Tacora does not need to make immediate payment to Cargill, so long as the amount owed by Tacora does not exceed the margining threshold. The threshold was originally set at \$5 million for each of Tacora and Cargill. The threshold for Tacora has subsequently been increased (first to \$7.5 million, and then further increased pursuant to related agreements). In this way, Cargill provides financing to Tacora through the Offtake Agreement.

27. I have been advised by Mr. Mulvihill, and verily believe, that Cargill has also been able to realize prices in excess of market norms for Tacora's iron ore through Cargill's iron ore marketing and other technical services. The brand established by Cargill known as Tacora Premium Concentrate ("TPC") is well established among customers and it has enhanced the value of Tacora's iron ore. Tacora has realized these benefits through Cargill's substantial investment in branding and technical marketing including but not limited to: R&D programs for European and Chinese markets, customer segmentation to identify high value in use customers, and substantial technical roadshows and a significant number of customer meetings globally since 2019. Tacora and Cargill enjoy economic alignment via the profit sharing mechanism set out in the Offtake Agreement.

28. Tacora has taken no steps to seek to assign or disclaim the Offtake Agreement (other than Tacora's attempt to "transfer" the Offtake Agreement in these CCAA proceedings as part of Tacora's proposed reverse vesting transaction).

29. There is a stockpile agreement dated December 17, 2019, as amended from time to time, between CITPL and Tacora, which works in conjunction with the Offtake Agreement (as further amended from time to time, the “**Stockpile Agreement**”). I have been advised by Mr. Mulvihill, and verily believe, that Cargill entered into the Stockpile Agreement with Tacora because around the time it was entered, Tacora was at risk of default on its senior debt covenants that were in place at that time and could not raise financing from any third parties. Accordingly, Cargill provided the Stockpile Agreement as a financing solution for Tacora. The Stockpile Agreement provides for payment of a provisional purchase price by Cargill to Tacora when TPC is unloaded to a stockpile at the port, at which point title is transferred to Cargill, as opposed to later payment after a vessel is loaded in port as it would be under the Offtake Agreement. This provides material working capital financing to Tacora by moving forward payment for TPC by one or two months on average.

30. In December 2023, based on a request from Tacora, Cargill agreed to an amendment of the Stockpile Agreement to increase the stockpile limit for the benefit of Tacora.

31. Tacora has taken no steps to seek to assign or disclaim the Stockpile Agreement.

32. Cargill and Tacora are also parties to an advanced payments facility agreement, initially dated January 3, 2023, as amended and restated on May 29, 2023 and further amended on June 23, 2023 (as further amended from time to time, the “**APF**”), pursuant to which Cargill initially made advanced payments to Tacora against future deliveries under the Offtake Agreement of \$30 million. As part of the amendment and restatement of the APF on May 29, 2023, Cargill agreed to provide a \$25 million margining facility (to increase the amount of the margining facility under the Offtake Agreement), to fund Tacora’s margin amounts under the Offtake Agreement by way

of deemed advances instead of cash payments, thus providing additional liquidity to Tacora. Cargill agreed to extend the term of the APF (as well as the Stockpile Agreement) to October 10, 2023 (i.e., the date on which Tacora filed for protection under the CCAA).

33. Under the APF, as at October 10, 2023 when Tacora commenced these CCAA proceedings, Cargill was owed the following amounts (exclusive of any applicable fees and interest) by Tacora, which were secured:

- (a) \$4,717,648 regarding the margining facility, with the same rank as the senior priority notes held by the ad hoc group of noteholders (the “**AHG**”) and other noteholders; and
- (b) \$30,000,000 of advances pursuant to the APF, with the same rank as the senior secured notes held by the AHG and other noteholders.

34. Amounts owing under the APF are secured against the assets of Tacora and remain outstanding.

35. Cargill and Tacora were also parties to a wetcon purchase and sale agreement dated July 10, 2023 (the “**Wetcon Agreement**”) whereby Cargill agreed to purchase wet concentrate from Tacora for an initial upfront payment of \$5 million for 117,000 tonnes of wet concentrate, and additional payments when additional wet concentrate (up to a limit of 225,000 tonnes) was added to the stockpile, along with deferred further payments if and when Cargill took delivery of the wet concentrate based on the actual price of such wet concentrate. On September 12, 2023 (a potential date on which Tacora contemplated filing for protection under the CCAA), Cargill agreed to amend the Wetcon Agreement and to provide to Tacora \$3,954,171.43 in full satisfaction of all

amounts (including deferred amounts) owing under the Wetcon Agreement, which Cargill agreed to in order to provide Tacora with much needed liquidity that it was unable to otherwise secure.

36. All obligations under the Wetcon Agreement have been satisfied.

37. Other than the revenue and financing provided to Tacora through these agreements, I am not aware of any other source of day-to-day revenue or financing available to Tacora in respect of working capital.

IV. CARGILL PAYMENTS UNDER THE OFFTAKE AGREEMENT AND HEDGES

38. The TPC produced from the Scully Mine is taken by train to the port of Sept-Iles, Quebec. Cargill pays Tacora for the TPC at the port under the Stockpile Agreement, as set out in stockpile provisional invoices that are delivered by Tacora to Cargill. Examples of such stockpile provisional invoices dated May 2, 2023, May 8, 2023, May 9, 2023, May 16, 2023, and May 22, 2023 are attached as **Exhibit “A”**.

39. Once the TPC is loaded onto a ship at the port, Tacora then issues a vessel adjustment invoice to Cargill for the TPC actually on the vessel. This can result in either an amount owing to Tacora or a credit to Cargill, depending on if the amount Cargill already paid for that TPC pursuant to the stockpile provisional invoices, and any subsequent margin payments, was more or less than the amount on the vessel adjustment invoice. A copy of the vessel adjustment invoice dated June 19, 2023 in respect of the stockpile provisional invoices referred to in the preceding paragraph is attached as **Exhibit “B”**.

40. I am advised by Chung Hung Diong, Commodities Structuring Manager, Trading, at Cargill, and verily believe, that either before or contemporaneous to when a ship is loaded with

TPC at the port, Cargill will typically approach a Tacora representative, usually Heng Vuong, Tacora's Chief Financial Officer, or Joe Broking, Tacora's Chief Executive Officer, about whether Tacora wishes to hedge the price for TPC that is subject to the Offtake Agreement and the Stockpile Agreement. This hedging can make sense if, for example, there is a high price of iron ore prevailing at the time, or if Tacora wants price certainty. The hedges are used to manage the risk of iron ore price fluctuations. If Tacora agrees to such a hedge, then Cargill and Tacora execute a written amendment to the Offtake Agreement to document the hedge and amend the pricing formula in the Offtake Agreement. An example of such an amending agreement, dated June 26, 2023, corresponding to the iron ore referred to in the preceding two paragraphs, is attached as **Exhibit "C"**.

41. After the TPC reaches its final destination, the Platts 62 Iron Ore index price is known for the third month after vessel loading, and the chemical composition of the TPC is finally determined, a final invoice is issued by Tacora to Cargill. An example of such a final invoice corresponding to the TPC referred to in the preceding three paragraphs, dated February 16, 2024, is attached as **Exhibit "D"**. This final invoice will take into account the amount payable to Tacora pursuant to the Offtake Agreement as amended by any hedging arrangements incorporated as part of the Offtake Agreement, as described below, provisional payments already paid to/received from Tacora under the Stockpile Agreement and upon vessel load, and margining advances paid to/received from Tacora pursuant to the Offtake Agreement and APF. This can result in either an amount owing to Tacora or a credit to Cargill under the final invoice.

42. As noted above, there is a time gap between when there is a first payment by Cargill to Tacora further to a stockpile provisional invoice and any payment owing under the final invoice.

The pricing under the Offtake Agreement and the related agreements described above is dependent on the price of iron ore, which fluctuates through time. These price fluctuations can lead to large swings in the amounts that may be owed by Cargill to Tacora (or vice versa) for any particular shipment of TPC between each of the invoicing and payment dates noted above (for example, between the time TPC arrives at the port and is loaded on the vessel, or between the time it is loaded on the vessel and arrives at its destination).

43. As noted above, to address this volatility, twice weekly Cargill calculates the net amounts outstanding for all Tacora TPC shipments under the relevant agreements including the Offtake Agreement. If the amount owing to or from Tacora exceeds the thresholds in the margining facilities described above, including under the Offtake Agreement, then a payment needs to be made. If Tacora owes an amount to Cargill that is below the threshold in the margining facilities, then Tacora does not need to make any payment at that time.

44. The arrangements and services that the Cargill metals business provides to Tacora are explicitly meant to provide Tacora with working capital, cash flow and liquidity. These services that Cargill's metals business provides to Tacora to provide working capital, cash flow and liquidity, are not typically provided to Cargill's other customers, nor are they provided by iron ore traders generally. Most traditional transactions involve purchase of cargos on FOB terms.

45. I am advised by Mr. Diong, and verily believe, that in addition to the hedges that Cargill arranges directly with Tacora, described above, Cargill also has a trading desk that handles derivatives and other risk management and financial strategies for Cargill in respect of the TPC sales made pursuant to the Offtake Agreement. By convention, iron ore pricing is typically based on a monthly sales price index such as the monthly average of the Platts 62 or Platts 65 price.

Pricing risk arises from the fact that the pricing terms under the Offtake Agreement for TPC are often set in a different month than the pricing terms under the contracts for sales of the TPC to third parties. Cargill's trading desk uses hedges to manage that risk.

46. By virtue of the Offtake Agreement, not all of the price risk for iron ore price movements is passed onto Tacora (for example, given the time difference between the month when a vessel is loaded with TPC from the Scully Mine, and the month of the final sale by Cargill to a third party). Once Cargill has visibility into the timing of TPC delivery from Tacora and the follow-on sale of that TPC to a third party, Cargill's trading desk then manages that price risk to Cargill through hedges and other derivative instruments involving Cargill's entire portfolio of iron ore. These hedging arrangements may extend over a period of six months or more. Cargill actively trades physical iron ore and iron ore derivatives, including trading iron ore futures contracts on both the Singapore Exchange and the Dalian Commodities Exchange. The risk from some of these transactions may offset each other without the need to directly execute hedging trades.

V. CARGILL'S INVESTMENT IN TACORA

47. Cargill holds shares and warrants in Tacora.

48. In particular, CITPL holds preferred shares in Tacora issued in November 2022, which provided Tacora with additional funding at the time they were issued so as to permit Tacora to pay the November 15 semi-annual interest payment due on amounts owing under Tacora's senior secured notes.

49. Various professionals from Cargill have worked on-site at Tacora prior to the commencement of these CCAA proceedings to support and enhance its operations, without any

payment by Tacora. In particular, Cargill provided Andrew Kirby, Strategic Customer Manager, who acted as the Plant General Manager for Tacora at no cost for approximately one year (Mr. Kirby had significant experience in industrial operations in the iron making industry). Timothy Sylow, Technical and Product Marketing Lead at Cargill (Mr. Sylow formerly led research and development for a leading steelmaker and iron ore miner), along with Mr. Kirby, worked with a consultant and led the development of a turnaround and capital investment plan for Tacora. This consultant subsequently advised Tacora on the implementation of the turnaround plan. Cargill employees have also served on Tacora's board of directors.

50. As discussed below in Section VI, Cargill has also expended a significant amount of time and effort, prior to these CCAA proceedings, to identify outside parties that could provide Tacora with additional financing or liquidity.

51. Cargill's approach in seeking to support and assist Tacora did not change once Tacora entered CCAA proceedings. Pursuant to the DIP Facility Term Sheet (the "**DIP Agreement**") dated October 9, 2023, which was approved by the CCAA Court in this proceeding on October 30, 2023, Cargill Inc. has provided debtor-in-possession financing to Tacora. As of February 28, 2024, the principal amount that has been advanced to Tacora under the DIP Agreement totals \$75 million (exclusive of accrued interest and fees). Cargill is willing to work with Tacora to ensure that it has sufficient funding in these CCAA proceedings. At the request of Tacora, on February 28, 2024, Cargill provided Tacora with a proposal for an extension and amendment to the DIP Agreement to increase additional availability for liquidity to assist Tacora with its overall operations.

52. As demonstrated by the discussion above about Cargill’s dealings with Tacora, Cargill has consistently sought to stabilize Tacora’s operations, provide Tacora with additional funding and overall liquidity, and assist Tacora to improve its operations. These steps included, without limitation, investing in Tacora preferred shares so that Tacora could pay interest to the noteholders in 2022, entering into the APF in January 2023, entering into the Wetcon Agreement in the fall of 2023, prepaying certain amounts due to Tacora in 2023, entering into the DIP Agreement in October 2023, and amending the Stockpile Agreement in December 2023. All of these steps benefitted Tacora and its stakeholders, including by providing Tacora with liquidity, including in circumstances when Tacora was unable to otherwise access such funding. Cargill has a long history of working with Tacora in a positive and constructive way to find balanced and reasonable solutions.

53. As described in further detail below, Cargill advanced its bid for Tacora in these CCAA proceedings in the same spirit. Cargill advanced a structure which it believed was value maximizing for all stakeholders. Tacora, however, elected not to engage or work with Cargill as part of that process.

VI. CARGILL INTRODUCED RCF TO TACORA

54. Paulo Carrelo is Senior Solutions and Structuring Manager in Cargill’s metals business, who is involved in Tacora matters. I am advised by Mr. Carrelo, and verily believe, that in November 2022, he approached a contact of his, Martin Valdes, who works at Resource Capital Fund (together with Resource Capital Fund VII L.P., “**RCF**”), about a potential investment in Tacora.

55. Tacora and RCF were unable to come to terms on a confidentiality agreement. So CITPL and RCF signed a Confidentiality Agreement dated May 3, 2023, for the stated purpose of facilitating discussions regarding a possible business relationship concerning restructuring or refinancing Tacora.

56. The negotiations between Cargill, the AHG and RCF about a consensual transaction involving Tacora culminated in a term sheet that had been negotiated between Cargill, the AHG and RCF. This term sheet included proposed amendments to the Offtake Agreement for the economic benefit of the AHG. Cargill understood that the term sheet was essentially settled amongst the parties. It was circulated in advance of meetings scheduled for October 3-4 in New York amongst Cargill, the AHG and RCF. Cargill understood that the purpose of the meetings was to finalize a consensual deal amongst Cargill, the AHG and RCF to recapitalize Tacora in order to avoid insolvency proceedings. A copy of my text exchange with Paulo Carrelo, Joe Broking and Heng Vuong for the period October 1 through October 6, 2023, is attached as **Exhibit “E”**. Those texts show that on October 2 we were discussing the term sheet that had been sent to the AHG to seek to advance a consensual deal, but by October 5 the discussion had turned to Cargill providing terms for debtor-in-possession financing.

57. This abrupt change happened because, at the meetings on October 3-4, it became clear that the AHG (or at minimum a subset of them) came into the meetings with no intention to pursue a consensual resolution, but rather were committed to Tacora entering into a CCAA proceeding.

VII. CARGILL HAS BEEN WILLING TO MODIFY THE OFFTAKE AGREEMENT

58. I can confirm that Cargill is currently open, and has previously been open, to the possibility of negotiating amendments to the Offtake Agreement, including its life-of-mine duration, as part

of attempts to find a consensual path to recapitalize or restructure Tacora. Cargill was open to that possibility before Tacora entered these CCAA proceedings, and continues to be open to that possibility today as part of these CCAA proceedings. This fact is known to Tacora and the other parties to these CCAA proceedings.

59. For example, as part of Cargill's discussions with RCF, RCF raised the possibility of modifications to the Offtake Agreement. I had a phone conversation with Mr. Carrelo and Mr. Valdes of RCF on the evening of October 4, 2023 to debrief the meetings in New York, and we discussed a potential path forward to a consensual deal. Mr. Valdes asked specifically if Cargill would be willing to amend the Offtake Agreement and I responded that although I could not officially commit such a position, my understanding was that there was clear openness within Cargill to make material changes to the Offtake Agreement in the interest of a consensual deal. Later, in a text exchange on WhatsApp starting on October 8, 2023 between Mr. Carrelo and Martin Valdes of RCF, the topic of Cargill's willingness to modify the Offtake Agreement as part of a potential transaction involving RCF, Cargill and the AHG was again raised. Mr. Valdes wrote that "there has to be room from offtake as well." Mr. Carrelo responded expressing Cargill's openness to modifications to the Offtake Agreement in the context of potential options for a transaction, writing "Yes we can modify offtake." Mr. Valdes was clear that he believed Cargill needed to also be open to potential modifications to the life-of-mine duration of the Offtake Agreement, writing "you need to be realistic about changing duration of offtake." Mr. Carrelo immediately responded: "Yep we are willing to move on that".

60. Even after Tacora had entered the CCAA process on October 10, 2023, Cargill remained open to potentially modifying the Offtake Agreement, including that it was a life-of-mine contract.

As part of Mr. Carrelo's WhatsApp exchange with Mr. Valdes, Mr. Valdes sent a message on October 12, 2023 seeking feedback on possible proposals. Mr. Carrelo responded on October 13, 2023, expressing willingness to explore them – Mr. Carrelo specifically wrote regarding the Offtake Agreement, "Offtake – your ideas are not a non starter." As I verily believe to be true, Mr. Carrelo was expressing in this message that Cargill was open to changes in the Offtake Agreement.

61. A copy of Mr. Carrelo's WhatsApp exchange with Mr. Valdes, including the WhatsApp messages referred to above, is attached as **Exhibit "F"**.

VIII. THE SISP

62. On October 30, 2023, the Court granted a Solicitation Order in this CCAA process authorizing and directing Tacora to run a sale, investment and services solicitation process (the "**SISP**"). Cargill engaged in the SISP in order to protect its economic interests.

63. Cargill hired a financial advisor, Jefferies Financial Group ("**Jefferies**") to assist Cargill as part of the SISP to identify and secure a partner or partners on any Cargill bid as part of the SISP. That engagement is continuing and ongoing. Cargill's approach to the SISP was to seek co-investors for any bid that Cargill would make, while also evaluating the possibility of making a bid on its own.

64. The SISP contained various milestones, including that on December 1, 2023, parties would submit phase 1 bids, and on January 19, 2024, parties would submit phase 2 bids. Cargill submitted bids in compliance with both of these dates. Below is a summary of the work that Cargill and its advisors undertook to prepare for and make its bids under the SISP. In particular, Cargill and

Jefferies undertook a significant amount of work during the SISP seeking potential debt and equity investors who would partner with Cargill as part of a bid.

65. Tacora required that potential investors sign non-disclosure agreements with it, before such parties could have access to the virtual data room that Tacora had set up for potential bidders. Cargill also entered into non-disclosure agreements with the potential investors it was dealing with (with the prior consent of Tacora pursuant to the SISP). In order to preserve the confidentiality of the identity of the parties to these non-disclosure agreements, this affidavit will not refer to any of them by name. This affidavit does not capture all of the substantial and intense work that Cargill (and its counsel) and Jefferies undertook as part of the SISP. Rather, it is meant to illustrate the magnitude of Cargill's work and to demonstrate that Cargill approached the SISP in good faith and with a serious and professional desire to comply with the SISP requirements and present the best bid possible. Cargill's approach to the SISP was specifically influenced by the terms in Schedule "A" of the Court's SISP Solicitation Order, including (i) the provisions at paragraphs 26 and 36 that permitted Tacora to waive compliance with requirements for phase 1 and phase 2 bids, and (ii) the provision in paragraph 40(b) that permitted Tacora to continue negotiations with phase 2 bidders with a view to finalizing acceptable terms with one or more bidders, all in order to maximize value to all stakeholders.

66. As part of the SISP, Cargill was required to negotiate a non-disclosure agreement with Tacora, which was dated November 27, 2023.

67. I am advised by Robert Chadwick, of Goodmans LLP, and verily believe, that in November and December 2023 during these CCAA proceedings, he communicated to Tacora (through counsel) that Cargill was willing to work with Tacora to advance a Cargill CCAA plan on a dual

track basis with Tacora's ongoing SISP to advance matters and the potential implementation of a transaction with Cargill in an efficient and timely manner.

68. Under the SISP, Cargill was required to get the permission of Tacora's financial advisor, Greenhill & Co. Canada Ltd. ("**Greenhill**"), and the Monitor, before it could seek to speak to a potential party who may provide debt or equity financing.

69. On November 8, 2023, Jefferies sent to Greenhill a list of 29 potential equity investors and 19 potential debt investors that it sought to speak with. Jefferies and Greenhill held a call on November 9 to discuss that list, on which Greenhill requested a revised investor list with fewer institutions. Accordingly on November 10, Jefferies followed up with a revised investor list, with 13 potential equity investors and 13 potential debt investors that it sought to speak with.

70. Jefferies followed up on November 13 seeking a call with Greenhill to discuss potential investors that could be contacted, and the call was scheduled for November 15.

71. On that call on November 15, Greenhill provided permission to speak with eight of the 13 potential equity investors, all of whom Jefferies or Cargill immediately reached out to. Greenhill also provided permission to speak with any of the potential debt investors, but expressed a preference if only a handful were actually contacted. Jefferies ultimately reached out to five potential debt investors in phase 1. Jefferies or Cargill reached out to 18 potential incremental equity investors and 14 potential incremental debt investors in phase 2 after obtaining proper consent from Greenhill.

72. Once Cargill reached out to those potential investors further to the permission granted by Tacora, if the potential investor was interested in pursuing matters with Cargill, the potential

investor then had to negotiate and sign a non-disclosure agreement with Tacora. After that non-disclosure agreement with Tacora was signed, Cargill then sought that the potential investor sign a separate non-disclosure agreement with Cargill. Further, Greenhill required that, before Cargill and Jefferies could speak with a potential investor about a potential bid, Jefferies or Cargill was required to send emails to Greenhill confirming Cargill's understanding that the potential investor in question wanted to work exclusively with Cargill, and seeking permission to communicate with that party about a potential bid as part of the SISP. The potential investor was required to separately confirm to Greenhill that they wanted to work exclusively with Cargill before being granted access to the virtual data room. This was an added layer of process that Greenhill required.

73. For example, Jefferies emailed Greenhill on November 27, 2023 about one of the potential investors it had identified to Tacora on November 8. Since that potential investor had executed a non-disclosure agreement with Tacora, Jefferies sought (i) confirmation that Cargill could speak with that potential investor regarding the potential investment opportunity, and (ii) access to Tacora's virtual data room for that potential investor. Cargill signed its own non-disclosure agreement with that potential investor on December 1. Tacora only confirmed to Cargill on December 8 that this potential investor had access to the virtual data room, after repeated follow-ups from Cargill.

74. The process described above repeated itself as Cargill identified additional potential investors, in terms of consents needing to be obtained from Tacora and Greenhill and non-disclosure agreements needing to be negotiated and concluded. All of this took time. For example, Cargill was still identifying potential investors that it sought permission from Tacora and Greenhill to speak with in December 2023 and January 2024. Despite the urgency for Cargill of moving

quickly through the process hurdles that Tacora and Greenhill adopted as part of the SISP (given the January 19, 2024 deadline for phase 2 bids), Jefferies was often required to make numerous follow-ups with Greenhill before Tacora would take steps or confirm matters. For example, in respect of a different potential investor that Cargill had identified, that potential investor signed a non-disclosure agreement with Tacora on December 1, 2023, but Tacora did not provide the potential investor access to the virtual data room until December 15.

75. Cargill ultimately signed non-disclosure agreements with approximately 16 potential investors after the SISP began. The first non-disclosure agreement was signed on December 4, 2023 and the most recent on January 24, 2024.

76. To the extent that these potential investors, after conducting due diligence on Tacora, were interested in pursuing a bid with Cargill, Cargill and Jefferies then had to negotiate the terms under which each may be willing to partner with Cargill on a bid in the SISP.

77. All of these steps took a significant amount of time and effort. In addition, all of these steps that Tacora and Greenhill implemented restricted Cargill's ability to engage with potential investors, in a manner that was detrimental to Cargill's ability to secure a commitment from a potential investor to partner with Cargill on a bid by January 19, 2024.

78. As part of Cargill's consideration of its various options to fund during the SISP and any bid that Cargill would make, the Chief Executive Officer of Cargill Inc. ultimately determined in early January 2024 that Cargill did not want to own a majority of Tacora, but would want, at most, a minority economic ownership interest in Tacora. Owning a majority of Tacora would require Cargill to consolidate Tacora's business with Cargill's operations from an accounting standpoint,

which is something that Cargill has historically sought to avoid as a matter of policy. Cargill was prepared, however, to convert up to \$100 million of capital into equity, but also wanted additional equity through one or more third party investors alongside Cargill's investment. After that decision was made, Cargill along with Jefferies continued their significant efforts, which had been pursued since the beginning of the SISP, to find a partner or partners who would be willing to join in a bid and own a 51% or more economic interest. Cargill also continued its significant efforts to undertake its own legal and financial due diligence on Tacora and to structure a bid for Tacora under the SISP. Further to that work, Cargill continued to work with its advisors to be in a position to advance its proposed recapitalization transaction by January 19, 2024.

79. On January 17, 2024, which was two days before the phase 2 bid submission date of January 19, Tacora posted an updated capitalization summary to its data room. The summary disclosed for the first time to Cargill material increases to Tacora's estimates for the amount of cash that Tacora believed it would require on closing of any transaction arising from the SISP. This new information required Cargill to address these additional cash requirements as part of its phase 2 bid. Notwithstanding Tacora providing this material information so late in the process, Cargill continued to advance its bid for January 19, 2024.

80. At no point during the SISP – not in phase 1 or phase 2 – did Tacora provide or offer to Cargill a form (or even a structure) of any proposed transaction agreement. I am advised by Mr. Chadwick, and verily believe, that after Cargill submitted its phase 1 bid on December 1, 2023, he asked Tacora's advisors if Tacora had a form of agreement that Tacora was going to produce to bidders (as contemplated by paragraph 34(d)(i) of Schedule "A" to the SISP Solicitation Order), and was advised that a form of agreement was not being provided by Tacora to the bidders.

IX. THE VALUE OF THE OFFTAKE TO CARGILL

81. I understand, based on the materials filed by Tacora in these CCAA proceedings, that after the commencement of the CCAA process, RCF partnered with the AHG and Javelin Global Commodities (SG) Pte Ltd. (“**Javelin**”, and together with the AHG and RCF, the “**AHG Consortium**”) in respect of a bid that the AHG Consortium ultimately delivered in the SISP (the “**AHG Consortium Bid**”). I further understand that the AHG Consortium Bid that Tacora is seeking to have approved contemplates that Cargill’s Offtake Agreement and its associated obligations would be “transferred” out of Tacora into a different company that would not have assets, and that any claim by Cargill in respect of the Offtake Agreement would not be satisfied.

82. At no point during the SISP, namely from the period October 30, 2023 through to date, did Tacora ever seek to have any discussion with, or to facilitate any discussion by the AHG with, Cargill about the Offtake Agreement, or about any topic. Rather, Tacora limited Cargill to discussions with Tacora, Greenhill and the Monitor, and Tacora restricted the AHG and Cargill from speaking with each other as part of the SISP. Tacora did not have any discussion with Cargill about the size of a potential claim if the Offtake Agreement was disclaimed or terminated or assigned, or any material or detailed discussion following the submission of phase 1 and phase 2 bids in the SISP about Cargill’s openness to potentially amend or modify the Offtake Agreement as part of a restructuring solution to these CCAA proceedings. Tacora also restricted the ability of Cargill or its advisors to speak with Tacora’s board of directors.

83. Tacora and its advisors also never advanced their own plan under the CCAA or any restructuring or consensual solution for Tacora. They did not seek to advance a plan or a consensual solution in conjunction with any potential transaction. Rather, Tacora and its advisors

appeared content to just passively see which parties might be interested in a transaction for Tacora following a rigid adherence to the SISP, and to proceed with one transaction on the assumption that the Offtake Agreement could be “vested out”. Tacora took no steps to create a CCAA plan or transaction that could proceed on a consensual basis.

84. As Cargill considered the strategy it wanted to pursue in the SISP, it took steps to value the Offtake Agreement. The profit that Cargill makes on the Offtake Agreement depends on many factors, including the volume of TPC produced by the Scully Mine, the global iron ore price, freight costs, and Cargill’s ability to market and sell the TPC. Cargill’s estimate for the gross proceeds, prior to costs like SG&A, execution and cost of capital, via the Offtake Agreement for 2025 is approximately \$26 million.

85. I believe that if Tacora took steps in these CCAA proceedings to not honour its obligations under the Offtake Agreement, Cargill’s claim against Tacora would be for more than \$500 million.

X. CARGILL PHASE 2 BID

86. On January 19, 2024, Cargill Inc., CITPL and 1000771978 Ontario Limited submitted Cargill’s binding Phase 2 bid materials to Cargill pursuant to the SISP (the “**Cargill Phase 2 Bid**”). A copy of the Cargill Phase 2 Bid redacted to remove certain commercially sensitive and confidential information is attached as **Exhibit “G”**.

87. The Cargill Phase 2 Bid proposed a transaction (the “**Cargill Recapitalization Transaction**”) involving an investment and restructuring of Tacora and its business, and the recapitalization of Tacora and its business. The Cargill Phase 2 Bid included at Appendix “A” a detailed Recapitalization Transaction Agreement with Tacora.

88. Understanding that paragraph 39 of Schedule “A” to the SISP Solicitation Order listed 12 criteria (being (a) through (l)) that Tacora and its advisors and the Monitor could evaluate for the phase 2 bids, Cargill also included at Appendix “C” to the Cargill Phase 2 Bid an itemized list of those criteria and the key features of the Cargill Recapitalization Transaction that addressed them. A copy of Appendix “C” to the Cargill Phase 2 Bid is attached as **Exhibit “H”**.

89. Cargill believed that the Cargill Recapitalization Transaction would achieve the highest possible result for Tacora and its stakeholders, including, among other things, satisfying in full all secured debt, providing a complete or substantial recovery for unsecured creditors, and assuming the Cargill Offtake Agreement in full on its existing terms along with other key contracts and obligations. The Cargill Phase 2 Bid contemplated that Tacora’s secured noteholders would be repaid in full in cash or re-instated on their terms and paid accrued interest in cash. The Cargill Phase 2 Bid contemplated as an option proceeding by way of a CCAA plan.

90. The Cargill Phase 2 Bid noted that a failure to assume the Offtake Agreement as part of any other transaction would create a claim against Tacora in excess of \$500 million, which would be avoided by the Cargill Recapitalization Transaction.

91. The Cargill Phase 2 Bid was proposed to be completed without delay and was structured to avoid conflict, material litigation and additional costs that would be associated with, for example, a reverse vesting order structure that would be expected to be heavy scrutinized by the Court.

92. As at January 19, 2024, despite the significant efforts that Cargill and Jefferies had expended, and costs incurred by Cargill, Cargill was unable to secure a firm commitment from one

or more of the potential investors it had been dealing with as part of the SISP. Nevertheless, Cargill was in active dialogue with five prospective new money equity investors and five prospective debt investors, which Cargill explicitly named in the Cargill Phase 2 Bid. Accordingly, the Cargill Recapitalization Transaction Agreement contained a condition that Cargill would obtain equity commitments of at least \$85 million by no later than three weeks following the execution of the Recapitalization Transaction Agreement by the parties.

93. Having participated in the SISP and sought third party participation in a bid by Cargill, I believe that based on the nature of any transaction involving Tacora, and the circumstances facing Tacora in these CCAA proceedings, it was essentially impossible for any third party to have been in a position to make a binding commitment to invest equity in Tacora by the January 19, 2024 deadline in the SISP, unless the third party had been involved with Tacora well in advance of December 2023. Additional time for third party equity was needed in order to advance the best available transaction to maximize value for all stakeholders.

XI. TACORA REFUSED TO ENGAGE WITH CARGILL FOLLOWING THE PHASE 2 BIDS OR USE DISCRETION IN THE SISP

94. Following the submission of the Cargill Phase 2 Bid on January 19, 2024, Tacora did not meaningfully engage with Cargill to address the deficiencies that Tacora perceived in the Cargill Phase 2 Bid, or otherwise.

95. Tacora's lawyers emailed Cargill's lawyers on January 19, 2024 following submission of the Cargill Phase 2 Bid, asking Cargill to provide a Word copy of the Cargill Phase 2 Bid and the amount of secured debt expenses incurred owing to Cargill and owing by Tacora. A copy of those email exchanges, without attachments, is attached as **Exhibit "I"**.

96. Counsel to Tacora and Cargill had a brief telephone call on January 22.

97. On the following day, January 23, an approximately one-hour call was held among counsel to Tacora, Greenhill, counsel to the Monitor, Cargill and Jefferies, where I understand from Mr. Chadwick, and verily believe, that Tacora's advisors sought clarifications on the Cargill Phase 2 Bid. It was made clear by the Tacora representatives that the call was for clarification only as there was a scheduled meeting of Tacora's board of directors on January 24. To my knowledge, that was the only meeting between Tacora's legal and financial representatives and Cargill's legal and financial representatives after January 19, when the Cargill Phase 2 Bid was delivered, to discuss any aspect of the Cargill Phase 2 Bid.

98. On January 25, 2024, counsel to Tacora wrote a letter to counsel to Cargill, a copy of which is attached as **Exhibit "J"**. The three-page letter stated that it was repeating what had been conveyed on the call on Tuesday, January 23, namely that it was Tacora's position that the Cargill Phase 2 Bid was not a "Phase 2 Qualified Bid" because, among other things, it was subject to a condition that additional equity financing be obtained.

99. On January 27, 2024, counsel to Cargill wrote a letter to counsel to Tacora, a copy of which is attached as **Exhibit "K"**, in response to the letter from Tacora's counsel on January 25. The letter sought to engage with Tacora to address the issues that Cargill understood that Tacora had with the Cargill Recapitalization Transaction. The letter made clear that Cargill did not agree that the Cargill Phase 2 Bid was not compliant with the SISP, and reminded Tacora that the SISP permitted Tacora to waive requirements under the SISP, which was a normal feature of any SISP.

100. The January 27 letter requested a meeting between Cargill and Tacora and its advisors, and a mark-up of the Cargill Recapitalization Transaction Agreement or a complete issues list. It stated Cargill's belief that a reverse vesting order transaction in the context of Tacora's CCAA proceedings would not be successful without the support of Cargill. The Cargill Phase 2 Bid contemplated a minimum of \$85 million of new money equity (along with a minimum of \$100 million of equity that Cargill would contribute), and that Tacora would have sufficient cash on hand at closing of the Cargill Recapitalization Transaction. Tacora seemed to not understand these provisions, so Cargill clarified them in the January 27 letter, given that Cargill had the same interest as Tacora (and any entity investing equity as part of the Cargill Recapitalization Transaction) that Tacora be properly funded on a go-forward basis. In light of Tacora's cash flow projections that had only been provided on January 17, Cargill asked for Tacora's cash flow model based on the Cargill Phase 2 Bid so that Cargill could work with Tacora to reach agreement on the amount of equity that the Cargill Recapitalization Transaction required.

101. Tacora did not ever agree to such a meeting or provide the requested mark-up or issues list or cash flow model.

102. On January 28, 2024, counsel to Tacora wrote to counsel to Cargill, a copy of which is attached as **Exhibit "L"**. The short one page letter did not address the points that Cargill had raised in its January 27 letter, but simply repeated Tacora's position that the Cargill Phase 2 Bid was not a compliant bid because it remained conditional on financing.

103. In response to that letter, counsel exchanged emails on January 28 and 29, a copy of which is attached as **Exhibit "M"**.

104. On January 29, 2024, counsel to Cargill wrote to counsel to Tacora. The email reported on a meeting earlier that day that counsel for Cargill had with the Monitor, and asked for a meeting with both the Monitor and Tacora that same day in order to discuss the issues raised in the correspondence from the previous days. Counsel to Tacora responded a few hours later, and advised that Tacora's board had met that evening and accepted the AHG Consortium Bid. A copy of that email exchange is attached as **Exhibit "N"**.

105. To my knowledge, at no point following Cargill's submission of the Cargill Phase 2 Bid did Tacora ever seek a meeting with Cargill, or provide a detailed list of Tacora's perceived issues with the Cargill Recapitalization Transaction or the Cargill Phase 2 Bid, or provide a mark-up of the Cargill Recapitalization Transaction Agreement.

106. It is very concerning to Cargill that after Cargill submitted the Cargill Phase 2 Bid on January 19, 2024, there was no direct dialogue or engagement between Tacora (or its advisors) and Cargill. I believe that Tacora and its advisors treated Cargill in a manner that was not appropriate in the circumstances.

107. Cargill believes that the process whereby Tacora selected the AHG Consortium Bid was prejudicial to Cargill and not fair and reasonable based on all of the circumstances. The AHG Consortium Bid advanced by Tacora, if approved, would create a claim by Cargill exceeding \$500 million that would not be paid. Cargill would be the only material creditor whose claim would not be satisfied. On the other hand, the Cargill Recapitalization Transaction would satisfy all creditors and not create a claim by Cargill in respect of the Offtake Agreement. Yet despite Cargill being the fulcrum party affected by the proposed AHG Consortium Bid, and despite Cargill's long

history as an important and valued stakeholder to Tacora, Tacora essentially ignored the interests of Cargill.

XII. RECENT EVENTS

108. Even after Tacora accepted the AHG Consortium Bid, Cargill continued to advance its efforts to find an investor or investors with which to partner on a bid for Tacora. Since January 19, 2024, Tacora has impeded Cargill's ability to advance such efforts: Tacora has stated the process is over and has been resistant to advancing a restructuring solution on a dual track with any process to approve the AHG Consortium Bid .

109. Tacora has rebuffed Cargill's attempts to seek a mediation to narrow issues or find common ground on the matters at issue in this proceeding.

110. On February 14, 2024, counsel to Cargill sent a letter to counsel to Tacora, which advised of Cargill's view that Tacora's proposed transaction with the AHG investors could not be approved, and that therefore Tacora should be advancing contingency planning including to obtain the consents and approvals required to implement any asset sale transaction. A copy of that letter is attached as **Exhibit "O"**. Tacora's counsel responded to that letter on the morning of March 1, 2024, a copy of which is attached as **Exhibit "P"**, claiming it was not in position to seek consents as it did not have a definitive asset sale transaction in place. As set out in the further response from Cargill's counsel sent on the afternoon of March 1, a copy of which is attached as **Exhibit "Q"**, Tacora's response misses the point, given that Tacora is refusing to pursue any contingency plan.

XIII. CARGILL'S PROPOSED CCAA PLAN²

111. Notwithstanding that the SISP provides for the advancement and completion of a recapitalization transaction in order to benefit a broad range of Tacora's stakeholders and to maximize value for all stakeholders, Tacora has failed to advance a plan of compromise and arrangement under the CCAA for the benefit of its stakeholders.

112. Accordingly, Cargill has developed a Plan of Compromise and Arrangement in respect of Tacora, a copy of which is attached hereto as **Exhibit "R"** (as it may be amended, supplemented or restated from time to time in accordance with the terms hereof, the "**Plan**").

113. Cargill's proposed Plan is on substantially the same terms as the Cargill Recapitalization Transaction proposed by Cargill pursuant to the Cargill Phase 2 Bid. In summary, the key aspects of the Plan include (among others):

- (a) all secured claims will be treated as Unaffected Claims under the Plan, and in particular with respect to Tacora's obligations under the Notes Indenture:
 - (i) all outstanding principal and accrued and unpaid interest under the Senior Priority Notes up to the Plan Implementation Date shall be satisfied in cash on the Plan Implementation Date;
 - (ii) accrued and unpaid interest in respect of the Senior Secured Notes up to the Plan Implementation Date shall be satisfied in cash and the Senior Secured Notes shall be treated as unaffected and remain outstanding under the Notes

² Capitalized terms used in this section and not otherwise defined herein shall have the meaning ascribed to such term in the Plan.

Indenture from and after the Plan Implementation Date; provided that Cargill and any one or more Senior Secured Noteholders shall be entitled to agree to the purchase by Tacora of such Senior Secured Noteholder's Senior Secured Notes for cash consideration, at a discount to par, in an amount agreed to by Cargill and such Senior Secured Noteholder(s), to be implemented on or following the Plan Implementation Date; and

(iii) the Notes Trustee Costs shall be satisfied in cash, provided that in the event that Tacora, the Notes Trustee and Cargill are unable to reach an agreement on the Notes Trustee Costs prior to the Plan Implementation Date, an amount agreed to by Tacora, the Monitor, Cargill and the Notes Trustee (or such amount as determined by the Court if Tacora, the Monitor, Cargill and the Notes Trustee cannot agree) shall be deposited in trust with the Monitor as security for payment of the Notes Trustee Costs pending an agreement on the Notes Trustee Costs by Tacora, the Notes Trustee and Cargill or pending determination thereof by the Court;

(b) Affected Unsecured Claims will receive distributions from the Affected Unsecured Creditors Aggregate Distribution Amount of \$25 million (or the Canadian dollar equivalent thereof), or such other amount as agreed to by Cargill in consultation with the Monitor (provided that the Affected Unsecured Creditors Aggregate Distribution Amount shall be reduced by the aggregate amount of any Unaffected Trade Claims which may be determined by Cargill in consultation with the Monitor and Tacora) as follows:

- (i) each Affected Unsecured Creditor that is a Convenience Creditor (i.e. having an Affected Unsecured Claim that is not more than \$5,000) shall receive the lesser of the amount owed to the Affected Unsecured Creditor in respect of its Allowed Affected Unsecured Claim or \$5,000; and
 - (ii) any Affected Unsecured Creditor owed more than \$5,000 in respect of its Allowed Affected Unsecured Claim shall receive the lesser of the amount owed to the Affected Unsecured Creditor in respect of its Allowed Affected Unsecured Claim or its Affected Unsecured Creditor's Pro-Rata Share of the Affected Unsecured Creditors Distribution Pool;
- (c) Unaffected Claims shall include:
- (i) Claim secured by any of the CCAA Charges;
 - (ii) Unaffected Secured Claim;
 - (iii) Insured Claim;
 - (iv) Post-Filing Trade Payable;
 - (v) Unaffected Trade Claim;
 - (vi) Scheduled Unaffected Claim;
 - (vii) the Offtake Agreement Obligations and the OPA Obligations;
 - (viii) a Claim that is not permitted to be compromised pursuant to section 19(2) of the CCAA;

- (ix) Claims of Employees in their capacity as Employees, Employee Priority Claims and, to the extent applicable, any Claims of Employees under or pursuant to the Collective Bargaining Agreement;
 - (x) Government Priority Claims; and
 - (xi) Environmental Liabilities;
- (d) New Equity Financing will be funded to Tacora on the Plan Implementation Date in exchange for 100% of the New Tacora Common Shares to be issued pursuant to the Plan on the Plan Implementation Date (subject to dilution from the Management Incentive Plan). The aggregate proceeds of the New Equity Financing shall be sufficient to pay the amounts contemplated to be paid pursuant to the Plan in cash on the Plan Implementation Date and to fund the operations of the Business, as determined by Cargill and the other New Equity Participants. Cargill acknowledges that, as of the date of this affidavit, those amounts from any third-party are not currently committed. Cargill's portion of the New Equity Financing shall be funded by way of the Exchanged Cargill Debt Amount, being up to \$100 million of Debt Obligations of Tacora owing to Cargill, comprised of (A) an amount of Debt Obligations of Tacora under the DIP Agreement, as agreed to by Cargill (the "**Exchanged DIP Amount**"), and (B) an amount of the Debt Obligations of Tacora in respect of the Advance Payment Facility Claims, as agreed to by Cargill (the "**Exchanged Advance Payment Facility Claims Amount**" and together with the Exchanged DIP Amount, the "**Exchanged Cargill Debt Amount**"). Noteholders shall be entitled to participate in the New Equity

Financing in such proportion and on such terms as may be agreed to by Cargill and such Noteholder, subject to the terms of the Plan. Each Noteholder shall have the right to elect to participate in the New Equity Financing (each a “**New Equity Electing Noteholder**”);

- (e) all Equity Interests (including the Existing Tacora Common Shares, Existing Tacora Preferred Shares and Existing Tacora Warrants and Options) and the Stock Option Plans shall be cancelled and extinguished, and all Equity Claims shall be released on the Plan Implementation Date;
- (f) Tacora shall obtain a New Senior Secured Pre-Payment Facility in the approximate range of \$150-200 million and the Senior Priority Margining Facility may be increased from \$25 million to \$75 million in availability to facilitate a comprehensive hedging program for Tacora on market terms;
- (g) CITPL and Tacora shall agree that, from and after the Plan Implementation Date, CITPL will provide to Tacora interim access to up to seventy percent (70%) of the amounts earned by CITPL pursuant to the Offtake Agreement until the Senior Secured Notes are repaid in full, whether at or before their maturity. The terms and structure of the access to such amounts shall be agreed to by Tacora and CITPL;
- (h) CITPL shall agree to extend the OPA on similar terms as previously provided to Tacora effective as of the Plan Implementation Date;
- (i) the KERP Employees eligible to receive payments pursuant to the KERP in connection with the implementation of the Plan shall be paid the amounts they are

entitled to pursuant to the KERP from the KERP Funds, any remaining amounts forming part of the KERP Funds shall be released to Tacora, and the KERP Charge shall be released on the Plan Implementation Date;

- (j) the Administration Charge Amount, the Transaction Fee Charge Amount and any remaining Debt Obligations of Tacora under the DIP Agreement not exchanged for New Tacora Common Shares pursuant to the Plan shall each be satisfied in cash and the Administration Charge, the Transaction Fee Charge and the DIP Charge shall each be released on the Plan Implementation Date; and
- (k) the releases contemplated under the Plan shall become effective and the Directors' Charge shall be released.

114. The only affected class of creditors under the Plan will be the Affected Unsecured Creditors Class and only the Affected Unsecured Creditors will be entitled to vote on the Plan. Cargill is prepared to take input and have constructive dialogue on the CCAA Plan with Tacora, the Monitor and Tacora's stakeholders.

115. Pursuant to its Responding Cross-Motion, Cargill is seeking authority pursuant to a proposed Meeting Order (a copy of which is enclosed with Cargill's Responding Cross-Motion Record) to file Cargill's proposed Plan with the Court and authority to call a meeting of the Affected Unsecured Creditors to consider and vote on the Plan. In connection therewith, Cargill is also seeking a proposed Claims Procedure Order (a copy of which is enclosed with Cargill's Responding Cross-Motion Record), establishing a claims procedure (the "**Claims Process**"), to be

conducted by the Monitor, for the identification and quantification of the Affected Unsecured Claims against Tacora for purposes of voting on and receiving distributions under the Plan.

116. The Claims Process would run concurrently with the process to solicit votes on the Plan pursuant to the Meeting Order, to provide for an efficient parallel process in an appropriate time frame.

117. Cargill believes that the proposed Plan has many key benefits for Tacora and its stakeholders, and is superior to the proposed AHG Consortium Bid for numerous reasons. Among other key factors:

- (a) the Plan treats the Noteholders as Unaffected Creditors and the claims of the Noteholders will be satisfied in full pursuant to the Plan, whereas the AHG Consortium Bid provides for the equitization of certain amounts in respect of the Senior Secured Notes that are being exchanged at a significant discount to the new funding being provided by the equity participants under the AHG Consortium Bid;
- (b) the Plan treats the Offtake Agreement Obligations and the OPA Obligations as Unaffected Claims under the Plan, whereas the AHG Consortium Bid seeks to exclude such obligations and purports to “transfer” them to ResidualCo, creating a claim in excess of \$500 million that cannot be satisfied, resulting in material prejudice to Cargill;
- (c) Affected Unsecured Creditors will receive significant if not full recovery under the Plan;

- (d) Claims of Employees, Government Priority Claims and Environmental Liabilities are all unaffected under the Plan;
- (e) the New Equity Financing, combined with the New Senior Secured Pre-Payment Facility, will result in sufficient funding to efficiently and effectively operate and improve the Business for the benefit of its stakeholders;
- (f) the Plan allows for the implementation of a share transaction pursuant to a CCAA plan of arrangement and eliminates the risk that a Court will not grant a reverse vesting order based on the facts and circumstances of the Tacora situation, thereby providing greater certainty that Tacora can successfully complete a share transaction; and
- (g) benefits all stakeholders of Tacora and treats all creditors in a fair and reasonable manner.

118. As part of Cargill's proposed transaction under the Plan, Cargill's intention is to continue to support the Tacora business and to invest in the necessary capital projects required to achieve the 6 Mtpa nameplate production capacity of the Scully Mine. The intention under the proposed transaction is to maintain Tacora's existing employees and continue to maintain substantially all of the trade and supply relationships.

XIV. CONCLUSION

119. Consistent with its historical approach, Cargill's goal has always been to proceed with a consensual transaction that would be supported by Tacora and all key stakeholders, and that would avoid the significant costs of litigation. Cargill worked hard towards such an outcome prior to the

commencement of these CCAA proceedings, and continues to advance its efforts within these CCAA proceedings with that aim. Cargill hopes that Tacora will engage with Cargill in respect of Cargill’s proposed Plan, as Cargill believes that such path is in the best interests of all stakeholders and creates a value maximizing option in advance of the scheduled April hearings. Cargill will continue to advance its efforts in respect of its proposed Plan in any event, but believes that Tacora’s engagement would result in a more efficient and productive path forward that would benefit all of Tacora’s stakeholders.

SWORN remotely by Matthew Lehtinen stated as being located in the City of Carmel in the State of Indiana, before me at the City of Toronto, in the Province of Ontario, on March 1, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits

Brittini Tee
LSO #85001P



Matthew Lehtinen

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding Commenced At Toronto

**AFFIDAVIT OF MATTHEW LEHTINEN
SWORN MARCH 1, 2024**

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Lawyers for Cargill, Incorporated and Cargill International Trading
Pte Ltd.

**THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Matthew Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

DIP FACILITY TERM SHEET

This term sheet dated as of October 9, 2023 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc.

Background:

CITPL (as defined below) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement, the Onshore Agreement and the Wetcon PSA (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora.

Tacora has requested that Cargill provide the DIP Facility (as defined below) and continue the Existing Arrangements during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) to be commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) and in accordance with the terms and conditions set out herein;

Cargill has agreed to cause CITPL to continue the Existing Arrangements and provide the DIP Facility pursuant to and in accordance with, among other terms, those terms set out below:

1. **BORROWER:** Tacora Resources Inc. (“**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “A”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$75 million (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in a principal amount of \$15,500,000; and
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP

Lender) with each Subsequent Advance amount being in an amount no less than \$1,000,000 and the principal amount of the aggregate Subsequent Advances being no more than \$59.5 million, such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “B” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, and (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING**

ARRANGEMENTS:

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the

business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof; and
- (c) Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory

fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);

- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL
ADVANCE
CONDITIONS:**

The DIP Lender’s agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Initial Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an initial order in respect of the Borrower (the “**Initial Order**”) in substantially the form attached hereto as Schedule “**D**” and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the “**DIP Lender Charge**”) on the Borrower’s Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower’s Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other

than in connection with the granting of the Amended Initial Order), without the written consent of the DIP Lender, acting reasonably.

- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance.
- (c) The Borrower shall have executed and delivered this Term Sheet.
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Subsequent Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) At the comeback motion in respect of the Initial Order, the Court shall have issued an amended and restated Initial Order (the "**Amended Initial Order**") in substantially the form attached hereto as Schedule "**E**" and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens.
- (b) The Amended Initial Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably.
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens.
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the “**DIP Lender Expenses**”) in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender’s participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days’ notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS: AND PRIORITY:**

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:**

The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the

date such Plan is implemented.

13. **DIP BUDGET AND
VARIANCE
REPORTING:**

Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF
INDEBTEDNESS:**

The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fee) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT FEE:** Upon the earlier of (a) completion of a successful Restructuring Transaction and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay an exit fee, in cash, in an amount equal to 3.00% of the aggregate committed amount of the DIP Facility, being equal to \$2,250,000 (the “**Exit Fee**”), provided that the Exit Fee shall only be payable if the DIP Facility is approved pursuant to the Amended Initial Order.

18. **CURRENCY** Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY
REPAYMENTS:**

Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND
WARRANTIES:**

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
- (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
- (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;

- (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
- (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
- (h) Other than as stayed pursuant to the Initial Order or the Amended Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
- (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);
- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and
- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information

in respect of such process to the DIP Lender.

21. **AFFIRMATIVE COVENANTS:**

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the Amended Initial Order by October 20, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Comply with the provisions of the Initial Order, the Amended Initial Order, and all other Court Orders;
- (g) Preserve, renew and keep in full force its corporate existence;
- (h) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;

- (i) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (j) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (k) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (l) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (n) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (o) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (p) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as

applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;

- (q) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (r) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement, (ii) the Onshore Agreement and (iii) the Wetcon PSA (other than any notice delivered under Section 4.4 thereof unless delivered following an Event of Default and with leave of the Court in accordance with Section 24 hereof);
- (s) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (t) Comply with the DIP Budget subject to the Permitted Variance; and
- (u) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

**22. NEGATIVE
COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended Initial Order or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget

and the Initial Order or the Amended Initial Order;

- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;
- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;

- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;
- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended Initial Order, as applicable, in favour of the Borrower.

23. **EVENTS OF DEFAULT:**

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or

proves to be incorrect or misleading in any material respect as of the date made;

- (d) The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim (if permitted under the CCAA) any of the Existing Arrangements (which, for greater certainty, shall not include (i) the commencement and prosecution of the SISF, including the solicitation of an Alternative Offtake or Service Agreement, or (ii) taking any step or related action pursuant to a binding agreement entered into in respect of a Restructuring Transaction at or after the Bid Deadline, including executing such agreement, seeking court approval of such binding agreement or taking any steps in connection with consummating the Restructuring Transaction pursuant to such binding agreement) in each case at or after the Bid Deadline, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;
- (e) A default (other than a default resulting from the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings) under any Material Contract (other than failure to comply with any notice delivered under Section 4.4 of the Wetcon PSA unless delivered following an Event of Default and with leave of the Court in accordance with Section 24 hereof) or any material amendment of any Material Contract unless agreed to by the DIP Lender in writing;
- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended Initial Order;

- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. **REMEDIES:**

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. **INDEMNITY AND RELEASE:**

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified

Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. **TERMINATION BY BORROWER:** The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.
27. **HEDGING:** The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.
28. **TAXES:** All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively "**Taxes**"); provided, however, that if any Taxes are required by Applicable Law to be withheld ("**Withholding Taxes**") from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender

on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower's expense.

29. **STRATEGIC
PROCESS:**

The Borrower and the DIP Lender agree that the Borrower (in consultation with the Monitor) shall pursue a sales and investment solicitation process (the “SISP”) approved pursuant to a Court Order in respect of (a) potential Restructuring Transactions that may be available to the Borrower; and (b) offtake, service or other agreements in respect of the business of the Borrower (“**Alternative Offtake and Service Agreements**”) that may be available to the Borrower, and the SISP shall include the following milestones:

- (a) The deadline for the receipt of non-binding letters of intent: (i) for potential Restructuring Transactions; and/or (ii) any Alternative Offtake and Service Agreements, will be no later than December 1, 2023;
- (b) The final deadline for the receipt of binding bids: (i) for potential Restructuring Transactions; and/or (ii) any Alternative Offtake and Service Agreements, will be no later than January 19, 2024 (the “**Bid Deadline**”); and
- (c) Closing of transaction(s) will be no later than February 29, 2024,

provided that, the Borrower may extend each of the foregoing dates in accordance with the Court Order approving the SISP.

The DIP Lender (and/or its affiliates) shall be permitted to participate as a bidder in connection with any SISP in respect of potential Restructuring Transactions or Alternative Offtake and Service Agreements, and (ii) credit bid all or certain of the DIP Obligations and/or other obligations owing by the Borrower in connection with any Restructuring Transaction agreed to by the Borrower (in consultation with the Monitor) and the DIP Lender, in each case subject to any Court Order and such reasonable terms and conditions as may be required in the opinion of the Borrower (in

consultation with the Monitor), each acting reasonably, to protect the Borrower's restructuring process. The SISP shall be without prejudice to any rights that Cargill may have in respect of the Existing Arrangements, including pursuant to Section 32 (including subsection 32(9)(c)) of the CCAA, and all such rights are fully reserved.

30. ASSIGNMENT:

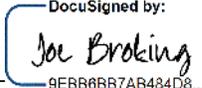
The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____
Name:  _____
Title: CEO

CARGILL, INCORPORATED, as DIP Lender

Per: _____



Name: Mark Conlon

Title: Financial Services & Metals
US Representative

DIP Term Sheet

Acknowledged and agreed solely in respect of the Existing Arrangements:

**CARGILL INTERNATIONAL TRADING
PTE LTD.**

Per: Philip Mulvihill
Name: _____
Title: _____

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Alternative Offtake and Service Agreements**” has the meaning given thereto in Section 28.

“**Amended Initial Order**” has the meaning given thereto in Section 8.

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Bid Deadline**” has the meaning given thereto in Section 29.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore

“**Cargill**” has the meaning given thereto in the preamble.

“**CCAA**” has the meaning given thereto in the preamble.

“**CCAA Proceedings**” has the meaning given thereto in the preamble.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the Recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including February 25, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fee) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fee**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order is granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Order**” has the meaning given thereto in Section 7(a).

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceeding, in a form previously sent to the DIP Lender on October 6, 2023.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound; (ii) which is material to, or necessary in, the operation of the business of such Borrower; and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and, for certainty, includes the Offtake Agreement, the Onshore Agreement and the Wetcon PSA, but does not include the Advance Payments Facility Agreement.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Permitted Liens**” means (i) the Permitted Priority Liens; (ii) the DIP Lender Charge; (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender Charge; (iv) Liens existing prior to the Filing Date; and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

“**SISP**” has the meaning given thereto in Section 28.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“**Taxes**” has the meaning given thereto in Section 27.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the preamble.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Wetcon PSA**” means the Wetcon Purchase and Sale Agreement made as of July 10, 2023 between the Borrower, as seller and CITPL, as buyer, as amended from time to time.

“**Withholding Taxes**” has the meaning given thereto in Section 27.

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

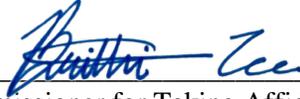
SCHEDULE "D"
FORM OF INITIAL ORDER

See attached.

SCHEDULE "E"
FORM OF AMENDED INITIAL ORDER

See attached.

**THIS IS EXHIBIT "C" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**



Commissioner for Taking Affidavits

From: Porepa, Jodi <Jodi.Porepa@fticonsulting.com>
Sent: Tuesday, February 20, 2024 11:00 PM
To: Matthew Lehtinen; Paul Carrelo; alanna_weifenchach@cargill.com; Chadwick, Robert; Descours, Caroline; Jeremy Matican
Cc: ataylor@stikeman.com; Lee Nicholson; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham
Subject: Tacora | Revised & Extended Cargill DIP Budget Scenario
Attachments: Project Element - Cargill DIP Budget - CCAA Output (2024.02.20)_vF.pdf; Project Element - Cargill DIP Budget (2024.02.20)_vF.pdf; Project Element - Cargill DIP Budget and CCAA Output (2024.02.20)_vF.xlsx

Further to discussions over the last few weeks, please find enclosed a revised and extended draft CCAA CFF prepared by Tacora, showing a revised and extended Cargill DIP scenario. The enclosed draft CFF shows an additional DIP need to May 19, 2024 of approximately \$32.5m. Please let us know your availability tomorrow/Thursday to set up a call to walk through the enclosed CFF and to discuss in more detail the draft Cargill DIP.

Jodi Porepa

+1.437.332.5743 M +1.347.208.5585 M

jodi.porepa@fticonsulting.com

Confidentiality Notice:

This email and any attachments may be confidential and protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the e-mail or any attachment is prohibited. If you have received this email in error, please notify us immediately by replying to the sender and then delete this copy and the reply from your system. Thank you for your cooperation.

**THIS IS EXHIBIT "D" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Britta Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Wednesday, February 21, 2024 10:43 PM
To: Chadwick, Robert; Porepa, Jodi
Cc: Matthew Lehtinen; Paul Carrelo; Alanna_Weifenbach@cargill.com; Descours, Caroline; Jeremy Matican; Ashley Taylor; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham
Subject: RE: Tacora | Revised & Extended Cargill DIP Budget Scenario

We'll canvass times again on our side.

On the next steps related to the DIP, the Company is requesting a DIP amendment/increase proposal that provide sufficient funding to May 19, 2024 based on the cash flow forecast that was distributed last night. Given timing, we are asking for parties to provide proposals by Monday, February 26, 2024 at 5:00 p.m. Proposals should not be linked in any manner related to the ongoing litigation related to the Successful Bid under the SISP and need to provide sufficient funding for the Company regardless of the outcome of the hearing on April 10 – 12. If you expect this timing to be an issue for your client, please let us know as soon as possible. We can discuss further tomorrow on the call once scheduled.

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

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From: Chadwick, Robert <rchadwick@goodmans.ca>
Sent: Wednesday, February 21, 2024 7:08 PM
To: Porepa, Jodi <Jodi.Porepa@fticonsulting.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Ashley Taylor <ATAYLOR@stikeman.com>; Lee Nicholson <leenicholson@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>
Subject: Re: Tacora | Revised & Extended Cargill DIP Budget Scenario

Apologies- 2pm is now out on our side but can do 230pm, 3pm or 330pm or another time. Thanks Rob

Robert J. Chadwick
Goodmans LLP

[416.597.4285](tel:416.597.4285)
rchadwick@goodmans.ca

Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7
goodmans.ca

On Feb 21, 2024, at 4:35 PM, Chadwick, Robert <rchadwick@goodmans.ca> wrote:

Thank you for the email below. Can we get a group from this email distribution on a call to discuss this in more detail tomorrow and next steps relating to the DIP. We may not need everyone but Goodmans and Cargill will make ourselves available. Does 2pm or 3pm tomorrow work? Let us know. Rob

Robert J. Chadwick

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416.597.4285

rchadwick@goodmans.ca

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333 Bay Street, Suite 3400

Toronto, ON M5H 2S7

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On Feb 20, 2024, at 11:08 PM, Porepa, Jodi <Jodi.Porepa@fticonsulting.com> wrote:

Further to discussions over the last few weeks, please find enclosed a revised and extended draft CCAA CFF prepared by Tacora, showing a revised and extended Cargill DIP scenario. The enclosed draft CFF shows an additional DIP need to May 19, 2024 of approximately \$32.5m. Please let us know your availability tomorrow/Thursday to set up a call to walk through the enclosed CFF and to discuss in more detail the draft Cargill DIP.

Jodi Porepa

+1.437.332.5743 M +1.347.208.5585 M

jodi.porepa@fticonsulting.com

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<Project Element - Cargill DIP Budget - CCAA Output (2024.02.20)_vF.pdf>

<Project Element - Cargill DIP Budget (2024.02.20)_vF.pdf>

<Project Element - Cargill DIP Budget and CCAA Output (2024.02.20)_vF.xlsx>

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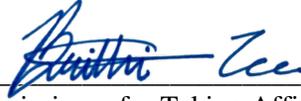
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**THIS IS EXHIBIT "E" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Matthew Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: Chadwick, Robert
Sent: Thursday, February 22, 2024 12:47 PM
To: Lee Nicholson
Cc: Porepa, Jodi; Matthew Lehtinen; Paul Carrelo; Alanna_Weifenbach@cargill.com; Descours, Caroline; Jeremy Matican; Ashley Taylor; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham
Subject: Re: Tacora | Revised & Extended Cargill DIP Budget Scenario

Lee- feel free to call today to discuss the below or we can do once the larger call is scheduled. We expect the timing below is tight for Monday as we will need Cargill internal approval based on the new information provided in the cashflows. We are prepared to move quickly to review and get internal Cargill approval- but we need to have our call and also have the complete information required for approval. We can speak today with you in order to move matters forward in the most efficient way. I think we should discuss a fair and reasonable date which works for Tacora and Cargill. We are prepared to move quickly as it is an important matter for Tacora and Cargill. Rob

Robert J. Chadwick
Goodmans LLP

416.597.4285
rchadwick@goodmans.ca

Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7
goodmans.ca

On Feb 21, 2024, at 10:43 PM, Lee Nicholson <leenicholson@stikeman.com> wrote:

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Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Ashley Taylor <ATAYLOR@stikeman.com>; Lee Nicholson <leenicholson@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>

Subject: Re: Tacora | Revised & Extended Cargill DIP Budget Scenario

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Robert J. Chadwick

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rchadwick@goodmans.ca

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goodmans.ca

On Feb 20, 2024, at 11:08 PM, Porepa, Jodi <Jodi.Porepa@fticonsulting.com> wrote:

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Jodi Porepa

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jodi.porepa@fticonsulting.com

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<Project Element - Cargill DIP Budget - CCAA Output

(2024.02.20)_vF.pdf>

<Project Element - Cargill DIP Budget (2024.02.20)_vF.pdf>

<Project Element - Cargill DIP Budget and CCAA Output

(2024.02.20)_vF.xlsx>

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Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

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**THIS IS EXHIBIT "F" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Brittany Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: Porepa, Jodi <Jodi.Porepa@fticonsulting.com>
Sent: Tuesday, February 27, 2024 3:19 AM
To: Matthew Lehtinen; Paul Carrelo; alanna_weifenbach@cargill.com; Chadwick, Robert; Descours, Caroline; Jeremy Matican
Cc: ataylor@stikeman.com; Lee Nicholson; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham; Ryan Jacobs (rjacobs@cassels.com); Jane Dietrich (jdietrich@cassels.com)
Subject: Tacora | Updated Cargill DIP Budget Scenario - as of February 26
Attachments: Bridge_(Cargill CFF 2.26 vs. 2.20)_2.26.2024_Internal_vF.xlsx; Project Element - Cargill DIP Budget_Dynamic 2024.02.26_vF.xlsx

As you are aware, we are enclosing an updated DIP budget scenario as a result of the recent drop in pricing. The revised requirement is approximately \$52.5, an additional \$20m over the amount requested last week on February 20. Please confirm your availability today to walk through in more detail. Please find enclosed:

- a) An updated CFF
- b) An updated bridge to the CFF circulated last week

Jodi Porepa

+1.437.332.5743 M +1.347.208.5585 M
jodi.porepa@fticonsulting.com

From: Porepa, Jodi
Sent: Tuesday, February 20, 2024 11:00 PM
To: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; alanna_weifenbach@cargill.com; Robert Chadwick (rchadwick@goodmans.ca) <rchadwick@goodmans.ca>; Caroline Descours (cdescours@goodmans.ca) <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>
Cc: ataylor@stikeman.com; Lee Nicholson <leenicholson@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>
Subject: Tacora | Revised & Extended Cargill DIP Budget Scenario

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jodi.porepa@fticonsulting.com

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AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

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Commissioner for Taking Affidavits

From: Chadwick, Robert
Sent: Wednesday, February 28, 2024 12:04 PM
To: Lee Nicholson; Ashley John Taylor (ataylor@stikeman.com)
Cc: Matthew Lehtinen; Paul Carrelo; Alanna_Weifenbach@cargill.com; Descours, Caroline; Jeremy Matican; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham; Ryan Jacobs (rjacobs@cassels.com); Jane Dietrich (jdietrich@cassels.com); Jodi Porepa
Subject: T
Attachments: Letter to Tacora re DIP Extension.pdf

As per the request of Tacora, please find enclosed our letter in respect of the dip extension/amendment. We are available to discuss and finalize matters as soon as Tacora is available. Rob

February 28, 2024

Via Email

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

Attention: Ashley Taylor and Lee Nicholson

Dear Ashley and Lee:

Re: Tacora Resources Inc. (“Tacora” or the “Company”) - Tacora’s Request for a DIP Increase

On February 21, 2024, Cargill received from Stikemans a request on behalf of Tacora for “a DIP amendment/increase proposal that provide sufficient funding to May 19, 2024 based on the cash flow forecast that was distributed last night”. Cargill reviewed and considered this request with the assistance of its advisors.

On February 27, 2024 at 3:20 a.m., Cargill received from the Monitor updated cash flows, in support of an revised DIP request by Tacora. Tacora had increased its additional DIP request by \$20 million to an aggregate of approximately \$52.5 million. Together with the existing DIP availability, this would bring the aggregate DIP amount to \$127.5 million.

Cargill has further reviewed and considered Tacora’s amended DIP request with the assistance of its advisors. Cargill is prepared to amend the DIP Agreement on the following terms:

- The aggregate availability under the DIP Agreement will be increased to \$127.5 million (an increase of \$52.5 million as requested by Tacora);
- No DIP draws shall be permitted when cash on hand is equal to \$10 million or more;
- Minimum draws of \$10 million and maximum draws of \$15 million at any one time;
- Cargill shall have received updated cash flows for the period up to June 30, 2024 that are acceptable to Cargill;
- The DIP exit fee shall apply to the full amount of the increased DIP;
- Tacora shall provide to Cargill a bring-down certificate under the DIP certifying:
 - all representations and warranties of Tacora contained in the DIP Agreement remain true and correct in all material respects;

- all of the covenants of Tacora contained in the DIP Agreement and all other terms and conditions contained in the DIP Agreement to be complied with by Tacora, not properly waived in writing by the DIP Lender, have been fully complied with;
 - Tacora has complied with and remains in compliance with all of its agreements with Cargill; and
 - no Default or Event of Default exists under the DIP Agreement;
- Tacora shall provide to Cargill and its counsel draft copies of and the opportunity to comment on the materials to be filed in support of Court approval of the DIP amendment at least two (2) Business Days prior to such materials or documents being served on the service list in respect of the CCAA Proceeding; and
 - The Court Order approving the DIP amendment (including the DIP Charge) shall be in form and substance acceptable to Cargill.

Once we have agreement on the terms of the DIP amendment, we can work with you to advance a simple form of DIP amending agreement.

While not a condition to Cargill's agreement to increase the amount of DIP financing that it is willing to make available to Tacora, Cargill strongly encourages Tacora, its board of directors and its advisors to re-focus and endeavour to work in good faith with Cargill. Tacora and Cargill are both aware that there are material disputes with regards to Tacora's proposed transaction with the Ad Hoc Group. However, we believe that Tacora's proposed transaction cannot be approved by the Court for the many reasons we have discussed and have outlined to you. Regardless of your position, we believe that with the benefit of available DIP funding and time, the Company should advance with Cargill contingency alternatives and value maximizing routes. There is no downside or prejudice to Tacora – only significant benefits.

Cargill remains willing and available to engage in meaningful efforts to address all matters among the parties, and believes that a consensual resolution among the parties will provide the greatest stability for the Company and best results for the benefit of the Company's stakeholders.

Goodmans^{LLP}

Yours truly,
Goodmans LLP

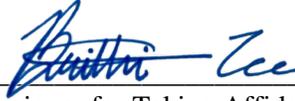


Robert J. Chadwick
RJC/

cc: Caroline Descours, *Goodmans LLP*
Paul Bishop and Jodi Porepa, *FTI Consulting Canada Inc.*
Ryan Jacobs and Jane Dietrich, *Cassels Brock & Blackwell LLP*
Michael Nessim, Usman Masood, Chetan Bhandari, *Greenhill & Co. Canada Ltd.*
Jeremy Matican, *Jefferies LLC*

1375-6533-5818

**THIS IS EXHIBIT "H" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Kristina Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Friday, March 1, 2024 9:45 AM
To: Chadwick, Robert; Ashley Taylor
Cc: Matthew Lehtinen; Paul Carrelo; Alanna_Weifenbach@cargill.com; Descours, Caroline; Jeremy Matican; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham; Ryan Jacobs (rjacobs@cassels.com); Jane Dietrich (jdietrich@cassels.com); Jodi Porepa
Subject: RE: T
Attachments: [Redline] #118814134v1 #118814134v6.pdf; #118814134v6 Amended and Restated DIP Term Sheet - Cargill.doc

Thank you for your DIP extension / amendment proposal. Please find attached an amended and restated DIP facility term sheet incorporating certain of the concepts from your proposal and including certain other amendments requested by the Company. The key change is the deletion of the covenants related to the Existing Arrangements, which we do not believe are appropriate at this stage of the CCAA proceedings. Additionally, the fee proposed by Cargill is excessive given the anticipated short term nature of this DIP facility. The attached remains subject to further review / comment by the Company and the Monitor.

We would ask that you consider these changes and let us know if Cargill is willing to provide financing on these terms. We are happy to discuss.

Additionally, could you confirm that no further internal approvals are required by Cargill to increase the commitment amount under the DIP Facility?

Thank you,

Lee

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

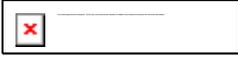
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Sent: Wednesday, February 28, 2024 12:04 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: T

As per the request of Tacora, please find enclosed our letter in respect of the dip extension/amendment. We are available to discuss and finalize matters as soon as Tacora is available. Rob

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5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

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AMENDED AND RESTATED DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of ~~October 9~~ March 6, 2023- 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (~~“**Tacora**”, together with Cargill, the “**Parties**”~~).

Recitals

Background:

CITPL (as defined ~~below~~ in Schedule “A”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement, the Onshore Agreement and the Wetcon PSA (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora.;

Tacora ~~has~~ requested that Cargill provide ~~the DIP Facility (as defined below) and continue the Existing Arrangements~~ DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) ~~to be~~ commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out ~~herein;~~ in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

~~Cargill has agreed to cause CITPL to continue the Existing Arrangements and provide the DIP Facility pursuant to and in accordance with, among other terms, those terms set out below:~~

- 1. BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
- 2. DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
- 3. DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “A”.

4. **DIP FACILITY
ADVANCES:**

A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of ~~\$75 million~~ 127,500,000 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in ~~a the~~ principal amount of \$15,500,000;~~and~~
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than ~~\$1,000,000 and the principal amount of the aggregate Subsequent Advances being 10,000,000 and~~ no more than \$59.5 million, 20,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule "B" (an "**Advance Confirmation Certificate**").

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, ~~and~~ (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honored by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be

concurrently provided to DIP Lender and the Monitor.

5. **EXISTING ARRANGEMENTS:**

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

(a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;

(j) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through the Maturity Date; and

(a) ~~(b)~~Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof; ~~and~~.

~~(e) Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA~~

~~Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.~~

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the **“Borrower Restructuring Expenses”**);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, ~~except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender,~~ or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL ADVANCE CONDITIONS:**

The DIP Lender’s agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the **“Initial Advance Conditions”**), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued ~~an initial order~~ the Initial Order in respect of the Borrower ~~(the “Initial Order”)~~ in substantially the form attached hereto as Schedule **“D”** and with such changes as are

acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the “**DIP Lender Charge**”) on the Borrower’s Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower’s Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably.;

- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance.;
- (c) The Borrower shall have executed and delivered this Term Sheet.;
- and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT
ADVANCE
CONDITIONS:**

The DIP Lender’s agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Subsequent Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) ~~At the comeback motion in respect of the Initial Order, the~~ The Court shall have issued an amended and restated Initial Order (the “**Amended and Restated Initial Order**”) ~~-, and the Court shall have issued a Court Order (the “**DIP Amendment Order**”) approving this Term Sheet and authorizing and empowering the Borrower to borrow hereunder,~~ in substantially the form attached hereto as Schedule “E” ~~and, and the Borrower shall provide to the DIP Lender the Borrower’s updated cash flow forecast, which shall be acceptable to the DIP Lender, for the period up to June 30, 2024,~~ each with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens

in respect of the Borrower's Collateral other than the Permitted Priority Liens;

- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. COSTS AND EXPENSES:

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the "DIP Lender Expenses") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. DIP LENDER CHARGE:

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. PERMITTED LIENS: AND PRIORITY:

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:**

The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND
VARIANCE
REPORTING:**

Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit ~~Fee~~Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT ~~FEES~~FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay ~~an~~ (i) an initial exit fee, in cash, in an amount equal to 3.00% of the ~~aggregate~~ initial committed amount ~~of~~

under the DIP Facility of \$75,000,000, being equal to \$2,250,000, and (ii) a subsequent exit fee, in cash, in an amount equal to [●]% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to [●], (collectively, the “Exit Fee”)-Fees”) provided that the Exit ~~Fee-Fees~~ shall only be payable if the DIP Facility is approved pursuant to the Amended and Restated Initial Order:

18. **CURRENCY:**

Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “Original Currency”) into another currency (the “Other Currency”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:**

Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND WARRANTIES:**

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other

action by, any governmental authority or any third party;
and

- (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
- (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
- (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
- (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
- (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
- (h) Other than as stayed pursuant to the Initial Order or the Amended [and Restated](#) Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
- (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended [and Restated](#) Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);

- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and
- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. AFFIRMATIVE COVENANTS:

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the Amended and Restated Initial Order by October 20, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- ~~(g)~~ (f) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- ~~(h)~~ (g) Preserve, renew and keep in full force its corporate existence;
- ~~(i)~~ (h) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- ~~(j)~~ (i) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- ~~(k)~~ (j) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings in respect of the DIP Facility at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- ~~(l)~~ (k) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- ~~(m)~~ (l) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring

process;

- (n) ~~(m)~~ Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (o) ~~(n)~~ Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) ~~(o)~~ Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) ~~(p)~~ At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) ~~(q)~~ Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) ~~(r)~~ Comply with the terms, and keep in full force and effect, each of (i) (i) the Offtake Agreement, (ii) the Onshore Agreement and (iii) the Weteon PSA (other than any notice delivered under Section 4.4 thereof unless delivered following an Event of Default and with leave of the Court in accordance with Section 24 hereof); [reserved]

- (t) ~~(s)~~ Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (u) ~~(t)~~ Comply with the DIP Budget subject to the Permitted Variance; and
- (v) ~~(u)~~ Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. **NEGATIVE COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;

- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;

- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;
- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

23. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) ~~The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim (if permitted under the CCAA) any of the Existing Arrangements (which, for greater certainty, shall not include (i) the commencement and prosecution of the SISP, including the solicitation of an Alternative Offtake or Service Agreement, or (ii) taking any step or related action pursuant to a binding agreement entered into in respect of a Restructuring Transaction at or after the Bid Deadline, including executing such agreement, seeking court approval of such binding agreement or taking any steps in connection with consummating the Restructuring Transaction~~

~~pursuant to such binding agreement) in each case at or after the Bid Deadline, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(e)) of the CCAA or otherwise; [reserved]~~

- (e) ~~A default (other than a default resulting from the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings) under any Material Contract (other than failure to comply with any notice delivered under Section 4.4 of the Weteon PSA unless delivered following an Event of Default and with leave of the Court in accordance with Section 24 hereof) or any material amendment of any Material Contract unless agreed to by the DIP Lender in writing; [reserved]~~
- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended [and Restated](#) Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final

judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted

under this Term Sheet shall survive any termination of the DIP Facility.

26. TERMINATION BY BORROWER: The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. HEDGING: The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.

28. TAXES: All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority

to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower's expense.

29. **STRATEGIC PROCESS:**

~~The Borrower and the DIP Lender agree that the Borrower (in consultation with the Monitor) shall pursue a sales and investment solicitation process (the "SISP") approved pursuant to a Court Order in respect of (a) potential Restructuring Transactions that may be available to the Borrower; and (b) offtake, service or other agreements in respect of the business of the Borrower ("Alternative Offtake and Service Agreements") that may be available to the Borrower, and the SISP shall include the following milestones:~~

~~(a) — The deadline for the receipt of non-binding letters of intent: (i) for potential Restructuring Transactions; and/or (ii) any Alternative Offtake and Service Agreements, will be no later than December 1, 2023;~~

~~(b) — The final deadline for the receipt of binding bids: (i) for potential Restructuring Transactions; and/or (ii) any Alternative Offtake and Service Agreements, will be no later than January 19, 2024 (the "Bid Deadline"); and~~

~~(c) — Closing of transaction(s) will be no later than February 29, 2024,~~

~~provided that, the Borrower may extend each of the foregoing dates in accordance with the Court Order approving the SISP.~~

~~The DIP Lender (and/or its affiliates) shall be permitted to participate as a bidder in connection with any SISP in respect of potential Restructuring Transactions or Alternative Offtake and Service Agreements, and (ii) credit bid all or certain of the DIP Obligations and/or other obligations owing by the Borrower in connection with any Restructuring Transaction agreed to by the Borrower (in consultation with the Monitor) and the DIP Lender, in each case subject to any Court Order and such reasonable terms and conditions as may be required in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, to protect the Borrower's restructuring process. The SISP shall be without prejudice to any rights that Cargill may have in respect of the Existing Arrangements, including pursuant to Section 32 (including subsection 32(9)(c)) of the CCAA, and all such rights are fully reserved.~~

~~[reserved]~~

30. **ASSIGNMENT:**

The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing

Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

**31. AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended, superseded and restated in their entirety by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____

Name:

Title:

Per: _____

Name:

Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. ~~1~~1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

~~“**Alternative Offtake and Service Agreements**” has the meaning given thereto in Section 28.~~

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

~~“**Bid Deadline**” has the meaning given thereto in Section 29.~~

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCAA**” has the meaning given thereto in the ~~preamble~~recitals.

“**CCAA Proceedings**” has the meaning given thereto in the ~~preamble~~recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the ~~Recitals~~[recitals](#).

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including ~~February 25, 2024~~[\[●\]](#), on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit ~~Fee~~[Fees](#)) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit ~~Fee~~[Fees](#)**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order ~~is~~was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Order**” has the meaning given thereto in ~~Section 7(a)~~the recitals.

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA ~~Proceeding~~Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound; ~~–~~ (ii) which is material to, or necessary in, the operation of the business of such Borrower; ~~–~~ and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, ~~and, for certainty, includes the Offtake Agreement, the Onshore Agreement and the Weteon PSA, but does not include the Advance Payments Facility Agreement.~~

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens; ~~(ii) the DIP Lender’s Charge;~~ (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge; ~~(iv) Liens existing prior to the Filing Date;~~ and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

~~“**SISP**” has the meaning given thereto in Section 28.~~

“SISP” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“Tacora” has the meaning given thereto in the recitals.

“**Taxes**” has the meaning given thereto in Section ~~27~~28.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the ~~preamble~~recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Wetcon PSA**” means the Wetcon Purchase and Sale Agreement made as of July 10, 2023 between the Borrower, as seller and CITPL, as buyer, as amended from time to time.

“**Withholding Taxes**” has the meaning given thereto in Section ~~27~~28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to ~~that certain~~ the Amended and Restated DIP Facility Term Sheet (the "Term Sheet") between Tacora Resources Inc., as borrower (the "Borrower"), and the DIP Lender (~~the "Term Sheet"~~). Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for [~~the Initial Advance~~ ~~/ a Subsequent Advance~~] (the **"Requested Advance"**) as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

SCHEDULE "D"
~~FORM OF~~ INITIAL ORDER

See attached.

SCHEDULE "E"
~~FORM OF~~ AMENDED AND RESTATED INITIAL ORDER

See attached.

SCHEDULE "F"
FORM OF DIP AMENDMENT ORDER

See attached.

AMENDED AND RESTATED DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of March 9, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement, the Onshore Agreement and the Wetcon PSA (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “**A**”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$127,500,000 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000;
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than \$20,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “**B**” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING ARRANGEMENTS:**

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP

Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through the Maturity Date; and
- (c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL
ADVANCE
CONDITIONS:**

The DIP Lender’s agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Initial Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached hereto as Schedule “**D**” and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the “**DIP Lender Charge**”) on the Borrower’s Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower’s Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent

of the DIP Lender, acting reasonably;

- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Subsequent Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an amended and restated Initial Order (the "**Amended and Restated Initial Order**"), and the Court shall have issued a Court Order (the "**DIP Amendment Order**") approving this Term Sheet and authorizing and empowering the Borrower to borrow hereunder, in substantially the form attached hereto as Schedule "E", and the Borrower shall provide to the DIP Lender the Borrower's updated cash flow forecast, which shall be acceptable to the DIP Lender, for the period up to June 30, 2024, each with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;
- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND
EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the "**DIP Lender Expenses**") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing

Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS: AND PRIORITY:**

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:**

The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND VARIANCE REPORTING:**

Attached hereto as Schedule "C" is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the "**Initial DIP Budget**"), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to

the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:**

The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000, and (ii) a subsequent exit fee, in cash, in an amount equal to [●]% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to [●], (collectively, the “Exit Fees”) provided that the Exit Fees shall only be payable if the DIP Facility is approved pursuant to the Amended and Restated Initial Order

18. **CURRENCY:** Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “Original Currency”) into another currency (the “Other Currency”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the

Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:**

Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND WARRANTIES:**

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
- (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
- (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such

licences or permits;

- (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
- (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
- (h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
- (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);
- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and

- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. AFFIRMATIVE COVENANTS:

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;

- (e) Obtain the Amended and Restated Initial Order by October 20, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings in respect of the DIP Facility at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;

- (o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) [reserved]
- (t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. NEGATIVE COVENANTS:

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or

ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;

- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;
- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such

Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);

- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;
- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

23. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10)

Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;

- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) [reserved]
- (e) [reserved]
- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other

DIP Credit Documents or the DIP Obligations; or

- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for

consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. **TERMINATION BY BORROWER:** The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. **HEDGING:** The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.

28. **TAXES:** All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively "**Taxes**"); provided, however, that if any Taxes are required by Applicable Law to be withheld ("**Withholding Taxes**") from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and

interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower's expense.

29. **STRATEGIC
PROCESS:**

[reserved]

30. **ASSIGNMENT:**

The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

31. **AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended, superseded and restated in their entirety by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____

Name:

Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____
Name:
Title:

Per: _____
Name:
Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCAA**” has the meaning given thereto in the recitals.

“**CCAA Proceedings**” has the meaning given thereto in the recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including [●], on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fees) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fees**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Order**” has the meaning given thereto in the recitals.

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of such Borrower, and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge, (iv) Liens existing prior to the Filing Date, and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

“**SISP**” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“**Tacora**” has the meaning given thereto in the recitals.

“**Taxes**” has the meaning given thereto in Section 28.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Wetcon PSA**” means the Wetcon Purchase and Sale Agreement made as of July 10, 2023 between the Borrower, as seller and CITPL, as buyer, as amended from time to time.

“**Withholding Taxes**” has the meaning given thereto in Section 28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for [**a Subsequent Advance**] (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

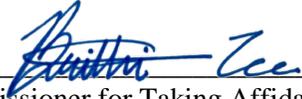
SCHEDULE "D"
INITIAL ORDER

See attached.

SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.

**THIS IS EXHIBIT "T" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Brittany Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: Descours, Caroline
Sent: Friday, March 1, 2024 11:26 AM
To: Lee Nicholson; Chadwick, Robert; Ashley Taylor
Cc: Matthew Lehtinen; Paul Carrelo; Alanna_Weifenbach@cargill.com; Jeremy Matican; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham; Ryan Jacobs (rjacobs@cassels.com); Jane Dietrich (jdietrich@cassels.com); Jodi Porepa
Subject: RE: T

Thanks Lee. We will review with Cargill and revert back to you on the below comments and requests. We need to review with Cargill but we do not expect any delays on timing on any internal approvals. Cargill remains willing to work towards acceptable DIP terms with the Company to ensure it has the required liquidity and stability. We will reach out if we think a call will be helpful to further discuss.

Thank you.

Caroline Descours
(she/her)
Goodmans LLP
[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Friday, March 1, 2024 9:45 AM
To: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: RE: T

Thank you for your DIP extension / amendment proposal. Please find attached an amended and restated DIP facility term sheet incorporating certain of the concepts from your proposal and including certain other amendments requested by the Company. The key change is the deletion of the covenants related to the Existing Arrangements, which we do not believe are appropriate at this stage of the CCAA proceedings. Additionally, the fee proposed by Cargill is excessive given the anticipated short term nature of this DIP facility. The attached remains subject to further review / comment by the Company and the Monitor.

We would ask that you consider these changes and let us know if Cargill is willing to provide financing on these terms. We are happy to discuss.

Additionally, could you confirm that no further internal approvals are required by Cargill to increase the commitment amount under the DIP Facility?

Thank you,

Lee

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

If you do not wish to receive our email marketing messages, please **unsubscribe**.

From: Chadwick, Robert <rchadwick@goodmans.ca>
Sent: Wednesday, February 28, 2024 12:04 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: T

As per the request of Tacora, please find enclosed our letter in respect of the dip extension/amendment. We are available to discuss and finalize matters as soon as Tacora is available. Rob

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**THIS IS EXHIBIT "J" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Matthew Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: Descours, Caroline
Sent: Monday, March 4, 2024 9:33 AM
To: Lee Nicholson
Cc: Chadwick, Robert; Ashley Taylor; Matthew Lehtinen; Paul Carrelo; Alanna_Weifenbach@cargill.com; Jeremy Matican; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham; Ryan Jacobs (rjacobs@cassels.com); Jane Dietrich (jdietrich@cassels.com); Jodi Porepa; Dedic, Dan
Subject: RE: T
Attachments: Amended and Restated DIP Term Sheet.docx; Redline - Amended and Restated DIP Term Sheet.pdf

Hi Lee,

Please see attached comments on the form of DIP amendment. We confirm no further Cargill internal approvals required on the attached. We also note that we do not anticipate any material legal fees in connection with the implementation of this DIP amendment.

Please let us know if helpful to discuss.

Thank you.

Caroline Descours
(she/her)
Goodmans LLP
[416.597.6275](tel:416.597.6275)

From: Descours, Caroline
Sent: Sunday, March 3, 2024 5:39 PM
To: Lee Nicholson <leenicholson@stikeman.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: Re: T

Hi Lee,

We have a mark up of the agreement with Cargill and plan to get back to you early tomorrow as we're just dealing with some time zones.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

416.597.6275

On Mar 3, 2024, at 1:28 PM, Lee Nicholson <leenicholson@stikeman.com> wrote:

Caroline – have you been able to review with Cargill? Please let us know if you have any comments on the markup. Additionally, we expect that the DIP proposal would not be subject to further internal approval when considered by Tacora’s board. Thanks.

Lee Nicholson

Direct: +1 416 869 5604

Mobile: +1 647 821 1931

Email: leenicholson@stikeman.com

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From: Descours, Caroline <cdescours@goodmans.ca>

Sent: Friday, March 1, 2024 11:26 AM

To: Lee Nicholson <leenicholson@stikeman.com>; Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>

Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: RE: T

Thanks Lee. We will review with Cargill and revert back to you on the below comments and requests. We need to review with Cargill but we do not expect any delays on timing on any internal approvals. Cargill remains willing to work towards acceptable DIP terms with the Company to ensure it has the required liquidity and stability. We will reach out if we think a call will be helpful to further discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

416.597.6275

From: Lee Nicholson <leenicholson@stikeman.com>

Sent: Friday, March 1, 2024 9:45 AM

To: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>

Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman

Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: RE: T

Thank you for your DIP extension / amendment proposal. Please find attached an amended and restated DIP facility term sheet incorporating certain of the concepts from your proposal and including certain other amendments requested by the Company. The key change is the deletion of the covenants related to the Existing Arrangements, which we do not believe are appropriate at this stage of the CCAA proceedings. Additionally, the fee proposed by Cargill is excessive given the anticipated short term nature of this DIP facility. The attached remains subject to further review / comment by the Company and the Monitor.

We would ask that you consider these changes and let us know if Cargill is willing to provide financing on these terms. We are happy to discuss.

Additionally, could you confirm that no further internal approvals are required by Cargill to increase the commitment amount under the DIP Facility?

Thank you,

Lee

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

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From: Chadwick, Robert <rchadwick@goodmans.ca>
Sent: Wednesday, February 28, 2024 12:04 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: T

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Rob

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AMENDED AND RESTATED DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of March 4, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet, in its entirety and without novation, in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “**A**”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$127,500,000 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “B” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING ARRANGEMENTS:**

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and

all such Margin Advances shall be secured by the DIP Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through April 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof; and
- (d) Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would,

affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to made or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL ADVANCE CONDITIONS:**

The DIP Lender’s agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Initial Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached hereto as Schedule “**D**” and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and

(iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the “**DIP Lender Charge**”) on the Borrower’s Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower’s Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;

- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT
ADVANCE
CONDITIONS:**

The DIP Lender’s agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Subsequent Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an amended and restated Initial Order (the “**Amended and Restated Initial Order**”), and the Court shall have issued a Court Order (the “**DIP Amendment Order**”) approving this Term Sheet and authorizing and empowering the Borrower to borrow hereunder, in substantially the form attached hereto as Schedule “E”, and the Borrower shall provide to the DIP Lender the Borrower’s updated cash flow forecast, which shall be acceptable to the DIP Lender, for the period up to June 30, 2024, each with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower’s Collateral other than the Permitted Priority Liens;
- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;

- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the “**DIP Lender Expenses**”) in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS: AND PRIORITY:**

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:**

The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

**13. DIP BUDGET AND
VARIANCE
REPORTING:**

Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender's accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.
15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.
- The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.
16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month.
- All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.
17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the infeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000 (the "**Initial Exit Fee**") which was fully earned and payable upon the issuance of the Amended and Restated Initial Order and (ii) a subsequent exit fee, in cash, in an amount equal to 2.00% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to \$1,050,000 (the "**Subsequent Exit Fee**" and together with the Initial Exit Fee, collectively, the "**Exit Fees**") provided that the Subsequent Exit Fee shall only be payable if the DIP Facility as amended and restated by this Term Sheet, is approved pursuant to the DIP Amendment Order.
18. **CURRENCY:** Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to

convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:**

Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND WARRANTIES:**

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
- (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;

- (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
- (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
- (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
- (h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
- (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);
- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or

certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and

- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. AFFIRMATIVE COVENANTS:

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;

- (e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;

- (o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement;
- (t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. **NEGATIVE COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of

business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;

- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;
- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except

pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);

- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;
- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

**23. EVENTS OF
DEFAULT:**

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10)

Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;

- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim (if permitted under the CCAA) any of the Existing Arrangements (which, for greater certainty, shall not include (i) the commencement and prosecution of the SISP or (ii) the taking any step or related action pursuant to a binding agreement entered into in respect of a Restructuring Transaction at or after the bid deadline under the SISP, including executing such agreement, seeking court approval of such binding agreement or taking any steps in connection with consummating the Restructuring Transaction pursuant to such binding agreement, in each case at or after the bid deadline under the SISP), without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;
- (e) A default (other than a default resulting from the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;
- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or

otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;

- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as

“**Indemnified Persons**”) from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, “**Claims**”) as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. **TERMINATION BY BORROWER:** The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.
27. **HEDGING:** The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.
28. **TAXES:** All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto

now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower’s expense.

29. **[RESERVED]**

30. **ASSIGNMENT:** The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISF. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

31. **AMENDMENT AND RESTATEMENT** The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____

Name:

Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____

Name:

Title:

Per: _____

Name:

Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCAA**” has the meaning given thereto in the recitals.

“**CCAA Proceedings**” has the meaning given thereto in the recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including June 30, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fees) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fees**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Exit Fee**” has the meaning given thereto in Section 17.

“**Initial Order**” has the meaning given thereto in the recitals.

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of such Borrower, and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and, for certainty, includes the Offtake Agreement and the Onshore Agreement.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge, (iv) Liens existing prior to the Filing Date, and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

“**SISP**” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“**Subsequent Exit Fee**” has the meaning given thereto in Section 17.

“**Tacora**” has the meaning given thereto in the recitals.

“**Taxes**” has the meaning given thereto in Section 28.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Withholding Taxes**” has the meaning given thereto in Section 28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for Subsequent Advance (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

SCHEDULE "D"
INITIAL ORDER

See attached.

SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.

SCHEDULE "F"
FORM OF DIP AMENDMENT ORDER

See attached.

AMENDED AND RESTATED DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of March 4, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “A”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement, and the Onshore Agreement ~~and the Weteon PSA~~ (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet, in its entirety and without novation, in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “A”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$127,500,000 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than ~~\$20,000,000~~ 15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “**B**” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING**

ARRANGEMENTS:

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP

Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through ~~the Maturity Date; and~~ April 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof; and
- (d) Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would,

affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL ADVANCE CONDITIONS:**

The DIP Lender’s agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Initial Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached hereto as Schedule “**D**” and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP

Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the “**DIP Lender Charge**”) on the Borrower’s Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower’s Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;

- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT
ADVANCE
CONDITIONS:**

The DIP Lender’s agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Subsequent Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an amended and restated Initial Order (the “**Amended and Restated Initial Order**”), and the Court shall have issued a Court Order (the “**DIP Amendment Order**”) approving this Term Sheet and authorizing and empowering the Borrower to borrow hereunder, in substantially the form attached hereto as Schedule “E”, and the Borrower shall provide to the DIP Lender the Borrower’s updated cash flow forecast, which shall be acceptable to the DIP Lender, for the period up to June 30, 2024, each with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower’s Collateral other than the Permitted Priority Liens;
- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting

reasonably;

- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the "**DIP Lender Expenses**") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS: AND PRIORITY:**

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:**

The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND
VARIANCE
REPORTING:**

Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount

under the DIP Facility of \$75,000,000, being equal to \$2,250,000, (the “Initial Exit Fee”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order and (ii) a subsequent exit fee, in cash, in an amount equal to ~~{●}~~2.00% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to ~~{●}~~ ~~(\$1,050,000 (the “Subsequent Exit Fee” and together with the Initial Exit Fee, collectively, the “Exit Fees”)~~ provided that the Subsequent Exit Fees shall only be payable if the DIP Facility as amended and restated by this Term Sheet, is approved pursuant to the ~~Amended and Restated Initial~~DIP Amendment Order.

18. **CURRENCY:**

Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:**

Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND WARRANTIES:**

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance

- with their terms;
- (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
 - (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
 - (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
 - (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
 - (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
 - (h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
 - (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA

Proceedings);

- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and
- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. **AFFIRMATIVE COVENANTS:**

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the

Borrower's restructuring process;

- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October ~~2024~~, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings ~~in respect of the DIP Facility~~ at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure

restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) ~~reserved~~ Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement;
- (t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;

- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. **NEGATIVE COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;
- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever,

other than in accordance with the DIP Budget;

- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;

- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

23. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) ~~reserved~~ The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim (if permitted under the CCAA) any of the Existing Arrangements (which, for greater certainty, shall not include (i) the commencement and prosecution of the SISP or (ii) the taking any step or related action pursuant to a binding agreement entered into in respect of a Restructuring Transaction at or after the bid deadline under the SISP, including executing such agreement, seeking court approval of such binding agreement or taking any steps in connection with consummating the Restructuring Transaction pursuant to such binding agreement, in each case at or after the bid deadline under the SISP), without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;
- (e) ~~reserved~~ A default (other than a default resulting from the insolvency of the Borrower or the commencement of the CCAA

Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately

due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as “**Indemnified Persons**”) from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, “**Claims**”) as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. TERMINATION BY BORROWER:

The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27

shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. **HEDGING:** The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.

28. **TAXES:** All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower’s expense.

29. **STRATEGIC** [reserved]
PROCESS: [RESER
VED]

30. **ASSIGNMENT:**

The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

31. **AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended, ~~superseded~~ and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____

Name:

Title:

Per: _____

Name:

Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCA**” has the meaning given thereto in the recitals.

“**CCA Proceedings**” has the meaning given thereto in the recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including ~~June 30, 2024~~, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fees) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fees**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Exit Fee**” has the meaning given thereto in Section 17.

“**Initial Order**” has the meaning given thereto in the recitals.

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of such Borrower, and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and, for certainty, includes the Offtake Agreement and the Onshore Agreement.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge, (iv) Liens existing prior to the Filing Date, and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

“SISP” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“Subsequent Advance” has the meaning given thereto in Section 4.

“Subsequent Advance Conditions” has the meaning given thereto in Section 8.

“Subsequent Exit Fee” has the meaning given thereto in Section 17.

“Tacora” has the meaning given thereto in the recitals.

“Taxes” has the meaning given thereto in Section 28.

“Transaction Fee Charge” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“Term Sheet” has the meaning given thereto in the recitals.

“Testing Period” has the meaning given thereto in Section 13.

“Variance Report” has the meaning given thereto in Section 13.

~~“Weteon PSA” means the Weteon Purchase and Sale Agreement made as of July 10, 2023 between the Borrower, as seller and CITPL, as buyer, as amended from time to time.~~

“Withholding Taxes” has the meaning given thereto in Section 28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for ~~f~~**a** Subsequent Advance~~f~~ (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____

Name:

Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

SCHEDULE "D"
INITIAL ORDER

See attached.

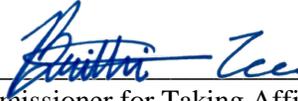
SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.

SCHEDULE "F"
FORM OF DIP AMENDMENT ORDER

See attached.

**THIS IS EXHIBIT "K" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Britten Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: Descours, Caroline
Sent: Wednesday, March 6, 2024 8:17 AM
To: Lee Nicholson; Ashley Taylor; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham; Ryan Jacobs (rjacobs@cassels.com); Jane Dietrich (jdietrich@cassels.com); Jodi Porepa
Cc: Chadwick, Robert; Dedic, Dan; Matthew Lehtinen; Paul Carrelo; Alanna_Weifenbach@cargill.com; Jeremy Matican
Subject: RE: T

Good morning,

We are following up on the below for any update on timing, next steps or otherwise that can be provided given the current status and timing of matters.

If helpful to schedule a call today, please let us know.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Descours, Caroline
Sent: Monday, March 4, 2024 9:33 AM
To: Lee Nicholson <leenicholson@stikeman.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>; Dedic, Dan <dodedic@goodmans.ca>
Subject: RE: T

Hi Lee,

Please see attached comments on the form of DIP amendment. We confirm no further Cargill internal approvals required on the attached. We also note that we do not anticipate any material legal fees in connection with the implementation of this DIP amendment.

Please let us know if helpful to discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

416.597.6275

From: Descours, Caroline

Sent: Sunday, March 3, 2024 5:39 PM

To: Lee Nicholson <leenicholson@stikeman.com>

Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: Re: T

Hi Lee,

We have a mark up of the agreement with Cargill and plan to get back to you early tomorrow as we're just dealing with some time zones.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

416.597.6275

On Mar 3, 2024, at 1:28 PM, Lee Nicholson <leenicholson@stikeman.com> wrote:

Caroline – have you been able to review with Cargill? Please let us know if you have any comments on the markup. Additionally, we expect that the DIP proposal would not be subject to further internal approval when considered by Tacora's board. Thanks.

Lee Nicholson

Direct: +1 416 869 5604

Mobile: +1 647 821 1931

Email: leenicholson@stikeman.com

If you do not wish to receive our email marketing messages, please **unsubscribe**.

From: Descours, Caroline <cdescours@goodmans.ca>

Sent: Friday, March 1, 2024 11:26 AM

To: Lee Nicholson <leenicholson@stikeman.com>; Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>

Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre,

Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: RE: T

Thanks Lee. We will review with Cargill and revert back to you on the below comments and requests. We need to review with Cargill but we do not expect any delays on timing on any internal approvals. Cargill remains willing to work towards acceptable DIP terms with the Company to ensure it has the required liquidity and stability. We will reach out if we think a call will be helpful to further discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>

Sent: Friday, March 1, 2024 9:45 AM

To: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>

Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>;

Alanna_Weifenbach@cargill.com; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican

<jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan

Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman

Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop,

Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan

Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com)

<jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: RE: T

Thank you for your DIP extension / amendment proposal. Please find attached an amended and restated DIP facility term sheet incorporating certain of the concepts from your proposal and including certain other amendments requested by the Company. The key change is the deletion of the covenants related to the Existing Arrangements, which we do not believe are appropriate at this stage of the CCAA proceedings. Additionally, the fee proposed by Cargill is excessive given the anticipated short term nature of this DIP facility. The attached remains subject to further review / comment by the Company and the Monitor.

We would ask that you consider these changes and let us know if Cargill is willing to provide financing on these terms. We are happy to discuss.

Additionally, could you confirm that no further internal approvals are required by Cargill to increase the commitment amount under the DIP Facility?

Thank you,

Lee

Lee Nicholson

Direct: +1 416 869 5604

Mobile: +1 647 821 1931

Email: leenicholson@stikeman.com

If you do not wish to receive our email marketing messages, please **unsubscribe**.

From: Chadwick, Robert <rchadwick@goodmans.ca>
Sent: Wednesday, February 28, 2024 12:04 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>;
Alanna_Weifenbach@cargill.com; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (<rjacobs@cassels.com> <rjacobs@cassels.com>); Jane Dietrich (<jdietrich@cassels.com> <jdietrich@cassels.com>); Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: T

As per the request of Tacora, please find enclosed our letter in respect of the dip extension/amendment. We are available to discuss and finalize matters as soon as Tacora is available.
Rob

***** Attention *****

This communication is intended solely for the named addressee(s) and may contain information that is privileged, confidential, protected or otherwise exempt from disclosure. No waiver of confidence, privilege, protection or otherwise is made. If you are not the intended recipient of this communication, or wish to unsubscribe, please advise us immediately at privacyofficer@goodmans.ca and delete this email without reading, copying or forwarding it to anyone. Goodmans LLP, 333 Bay Street, Suite 3400, Toronto, ON, M5H 2S7, www.goodmans.ca. You may unsubscribe to certain communications by clicking here.



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Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

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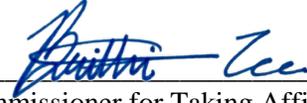
Follow us: [LinkedIn](#) / [Twitter](#) / [stikeman.com](#)

Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada

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**THIS IS EXHIBIT "L" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**



Commissioner for Taking Affidavits

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Wednesday, March 6, 2024 5:51 PM
To: Descours, Caroline; Ashley Taylor; Project Element 2023; Chetan Bhandari; Michael Nessim; Usman Masood; Charles Geizhals; Bishop, Paul; McIntyre, Graham; Ryan Jacobs (rjacobs@cassels.com); Jane Dietrich (jdietrich@cassels.com); Jodi Porepa
Cc: Chadwick, Robert; Dedic, Dan; Matthew Lehtinen; Paul Carrelo; Alanna_Weifenbach@cargill.com; Jeremy Matican
Subject: RE: T

Thanks Caroline – I should mention that we intend to review again with the Board during the day tomorrow and need a response as soon as possible, but tomorrow morning at latest. Thanks.

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

If you do not wish to receive our email marketing messages, please **unsubscribe**.

From: Descours, Caroline <cdescours@goodmans.ca>
Sent: Wednesday, March 6, 2024 5:49 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
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Subject: RE: T

Hi Lee,

Confirming receipt. We will review with Cargill and revert back.

Thank you.

Caroline Descours

(she/her)
Goodmans LLP
[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Wednesday, March 6, 2024 4:39 PM
To: Descours, Caroline <cdescours@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich

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To: Lee Nicholson <leenicholson@stikeman.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>; Dedic, Dan <ddedic@goodmans.ca>
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Please let us know if helpful to discuss.

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Caroline Descours
(she/her)
Goodmans LLP
[416.597.6275](tel:416.597.6275)

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To: Lee Nicholson <leenicholson@stikeman.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
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Caroline Descours

(she/her)

Goodmans LLP

416.597.6275

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Lee Nicholson

Direct: +1 416 869 5604

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Sent: Friday, March 1, 2024 11:26 AM

To: Lee Nicholson <leenicholson@stikeman.com>; Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>

Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: RE: T

Thanks Lee. We will review with Cargill and revert back to you on the below comments and requests. We need to review with Cargill but we do not expect any delays on timing on any internal approvals. Cargill remains willing to work towards acceptable DIP terms with the Company to ensure it has the required liquidity and stability. We will reach out if we think a call will be helpful to further discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

416.597.6275

From: Lee Nicholson <leenicholson@stikeman.com>

Sent: Friday, March 1, 2024 9:45 AM

To: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>

Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman

Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: RE: T

Thank you for your DIP extension / amendment proposal. Please find attached an amended and restated DIP facility term sheet incorporating certain of the concepts from your proposal and including certain other amendments requested by the Company. The key change is the deletion of the covenants related to the Existing Arrangements, which we do not believe are appropriate at this stage of the CCAA proceedings. Additionally, the fee proposed by Cargill is excessive given the anticipated short term nature of this DIP facility. The attached remains subject to further review / comment by the Company and the Monitor.

We would ask that you consider these changes and let us know if Cargill is willing to provide financing on these terms. We are happy to discuss.

Additionally, could you confirm that no further internal approvals are required by Cargill to increase the commitment amount under the DIP Facility?

Thank you,

Lee

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

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From: Chadwick, Robert <rchadwick@goodmans.ca>
Sent: Wednesday, February 28, 2024 12:04 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: T

As per the request of Tacora, please find enclosed our letter in respect of the dip extension/amendment. We are available to discuss and finalize matters as soon as Tacora is available.
Rob

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**THIS IS EXHIBIT "M" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Matthew Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: [Descours, Caroline](#)
To: [Lee Nicholson](#); [Ashley Taylor](#); [Project Element 2023](#); [Chetan Bhandari](#); [Michael Nessim](#); [Usman Masood](#); [Charles Geizhals](#); [Bishop, Paul](#); [McIntyre, Graham](#); [Ryan Jacobs \(rjacobs@cassels.com\)](#); [Jane Dietrich \(jdietrich@cassels.com\)](#); [Jodi Porepa](#)
Cc: [Chadwick, Robert](#); [Dedic, Dan](#); [Matthew Lehtinen](#); [Paul Carrelo](#); [Alanna Weifenbach@cargill.com](#); [Jeremy Matican](#)
Subject: RE: T
Date: Thursday, March 7, 2024 10:00:50 AM
Attachments: [Redline - Amended and Restated DIP Term Sheet \(to Stikemans version\).pdf](#)
[Redline - Amended and Restated DIP Term Sheet \(to Cargill version\).pdf](#)
[Amended and Restated DIP Term Sheet.docx](#)

Hi Lee,

Please see attached comments on the form of DIP amendment. For reference and ease of review, we've included a blackline to the Stikemans version from yesterday afternoon, and a blackline to the prior Cargill version. We understand there is a Board meeting scheduled for later today. If there are any questions or clarifications that would be helpful to discuss in advance of the meeting, please let us know and we are available to discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Wednesday, March 6, 2024 5:51 PM
To: Descours, Caroline <cdescours@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
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Subject: RE: T

Thanks Caroline – I should mention that we intend to review again with the Board during the day tomorrow and need a response as soon as possible, but tomorrow morning at latest. Thanks.

Lee Nicholson

Direct: +1 416 869 5604

Mobile: +1 647 821 1931

Email: leenicholson@stikeman.com

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From: Descours, Caroline <cdescours@goodmans.ca>
Sent: Wednesday, March 6, 2024 5:49 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (<rjacobs@cassels.com>) <rjacobs@cassels.com>; Jane Dietrich (<jdietrich@cassels.com>) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
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Subject: RE: T

Hi Lee,

Confirming receipt. We will review with Cargill and revert back.

Thank you.

Caroline Descours

(she/her)
Goodmans LLP
[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Wednesday, March 6, 2024 4:39 PM
To: Descours, Caroline <cdescours@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (<rjacobs@cassels.com>) <rjacobs@cassels.com>; Jane Dietrich (<jdietrich@cassels.com>) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Dedic, Dan <ddedic@goodmans.ca>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican <jmatican@jefferies.com>
Subject: RE: T

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Descours, Caroline <cdescours@goodmans.ca>
Sent: Wednesday, March 6, 2024 8:17 AM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Dedic, Dan <ddedic@goodmans.ca>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican <jmatican@jefferies.com>
Subject: RE: T

Good morning,

We are following up on the below for any update on timing, next steps or otherwise that can be provided given the current status and timing of matters.

If helpful to schedule a call today, please let us know.

Thank you.

Caroline Descours
(she/her)
Goodmans LLP
[416.597.6275](tel:416.597.6275)

From: Descours, Caroline

Sent: Monday, March 4, 2024 9:33 AM

To: Lee Nicholson <leenicholson@stikeman.com>

Cc: Chadwick, Robert <rhadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>; Dedic, Dan <ddedic@goodmans.ca>

Subject: RE: T

Hi Lee,

Please see attached comments on the form of DIP amendment. We confirm no further Cargill internal approvals required on the attached. We also note that we do not anticipate any material legal fees in connection with the implementation of this DIP amendment.

Please let us know if helpful to discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Descours, Caroline

Sent: Sunday, March 3, 2024 5:39 PM

To: Lee Nicholson <leenicholson@stikeman.com>

Cc: Chadwick, Robert <rhadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: Re: T

Hi Lee,

We have a mark up of the agreement with Cargill and plan to get back to you early tomorrow as we're just dealing with some time zones.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

416.597.6275

On Mar 3, 2024, at 1:28 PM, Lee Nicholson <leenicholson@stikeman.com> wrote:

Caroline – have you been able to review with Cargill? Please let us know if you have any comments on the markup. Additionally, we expect that the DIP proposal would not be subject to further internal approval when considered by Tacora's board. Thanks.

Lee Nicholson

Direct: +1 416 869 5604

Mobile: +1 647 821 1931

Email: leenicholson@stikeman.com

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DIP terms with the Company to ensure it has the required liquidity and stability. We will reach out if we think a call will be helpful to further discuss.

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Subject: RE: T

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We would ask that you consider these changes and let us know if Cargill is willing to provide financing on these terms. We are happy to discuss.

Additionally, could you confirm that no further internal approvals are required by Cargill to increase the commitment amount under the DIP Facility?

Thank you,

Lee

Lee Nicholson

Direct: +1 416 869 5604

Mobile: +1 647 821 1931

Email: leenicholson@stikeman.com

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Subject: T

As per the request of Tacora, please find enclosed our letter in respect of the dip extension/amendment. We are available to discuss and finalize matters as soon as Tacora is available. Rob

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AMENDED AND RESTATED DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of March 4⁷, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet, in its entirety and without novation, in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “**A**”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$127,500,000 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “**B**” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING**

ARRANGEMENTS:

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP

Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through April 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof;
- (d) Pay for all iron ore delivered by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement pursuant to the terms of such agreements for the duration of ~~the CCAA Proceedings~~this agreement without any set-off in respect of any damages claim that CITPL may assert against the Borrower or its affiliates; ~~and~~ provided that such damages are the result of treatment of the Onshore Agreement or the Offtake Agreement, to the extent permitted under the CCAA, pursuant to a Court Order (and for certainty, the foregoing restriction on set-off shall not apply to post-filing amounts payable by the Borrower to CITPL

[pursuant to the Onshore Agreement or the Offtake Agreement\); and](#)

- (e) Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL ADVANCE**

The DIP Lender’s agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the

CONDITIONS:

“**Initial Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached hereto as Schedule “**D**” and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the “**DIP Lender Charge**”) on the Borrower’s Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower’s Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;
- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT ADVANCE CONDITIONS:**

The DIP Lender’s agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Subsequent Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an amended and restated Initial Order (the “**Amended and Restated Initial Order**”), and the Court shall have issued a Court Order (the “**DIP Amendment Order**”) approving this Term Sheet and authorizing and empowering the Borrower to borrow hereunder, in substantially the form attached hereto as Schedule “**E**”, and the Borrower shall provide to the DIP Lender the Borrower’s updated cash flow forecast, which shall be acceptable to the DIP Lender, for the period up to June 30, 2024, each with such changes as are acceptable to the Borrower, the

Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;

- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the "**DIP Lender Expenses**") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS:**

All Collateral will be free and clear of all Liens, except for the Permitted

AND PRIORITY: Liens.

12. **REPAYMENT:** The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND VARIANCE REPORTING:** Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the

DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining

commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000 (the “**Initial Exit Fee**”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order and (ii) a subsequent exit fee, in cash, in an amount equal to 2.00% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to \$1,050,000 (the “**Subsequent Exit Fee**” and together with the Initial Exit Fee, collectively, the “**Exit Fees**”) provided that the Subsequent Exit Fee shall only be payable if the DIP Facility as amended and restated by this Term Sheet, is approved pursuant to the DIP Amendment Order.

18. **CURRENCY:**

Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:**

Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND WARRANTIES:**

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;

- (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
 - (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
 - (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
 - (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
 - (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
 - (h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
 - (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults

arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);

- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and
- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. **AFFIRMATIVE COVENANTS:**

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the

Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in

respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) ~~reserved~~ Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement, except (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order;
- (t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a

judgment in excess of \$100,000;

- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. NEGATIVE COVENANTS:

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;
- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior

officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;

- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;

- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

23. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) ~~reserved~~ The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim any of the Existing Arrangements, except (if permitted under the CCAA) pursuant to a Court Order, and the taking of steps to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;
- (e) ~~reserved~~ A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material

amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the

Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as “**Indemnified Persons**”) from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, “**Claims**”) as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. TERMINATION BY BORROWER:

The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing

Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. HEDGING:

The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.

28. TAXES:

All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower’s expense.

29. [RESERVED]

30. ASSIGNMENT:

The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing

Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

**31. AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____
Name:
Title:

Per: _____
Name:
Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCA**” has the meaning given thereto in the recitals.

“**CCA Proceedings**” has the meaning given thereto in the recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including June 30, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fees) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fees**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Exit Fee**” has the meaning given thereto in Section 17.

“**Initial Order**” has the meaning given thereto in the recitals.

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of such Borrower, and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and, for certainty, includes the Offtake Agreement and the Onshore Agreement.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**SISP**” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“**Subsequent Exit Fee**” has the meaning given thereto in Section 17.

“**Tacora**” has the meaning given thereto in the recitals.

“**Taxes**” has the meaning given thereto in Section 28.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Withholding Taxes**” has the meaning given thereto in Section 28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for Subsequent Advance (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge, (iv) Liens existing prior to the Filing Date, and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

SCHEDULE "D"
INITIAL ORDER

See attached.

SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.

SCHEDULE "F"
FORM OF DIP AMENDMENT ORDER

See attached.

AMENDED AND RESTATED DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of March 4⁷, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet, in its entirety and without novation, in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “**A**”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$127,500,000 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “**B**” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING**

ARRANGEMENTS:

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP

Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through April 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof; ~~and~~
- (d) Pay for all iron ore delivered by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement pursuant to the terms of such agreements for the duration of this agreement without any set-off in respect of any damages claim that CITPL may assert against the Borrower or its affiliates provided that such damages are the result of treatment of the Onshore Agreement or the Offtake Agreement, to the extent permitted under the CCAA, pursuant to a Court Order (and for certainty, the foregoing restriction on set-off shall not apply to post-filing amounts payable by the Borrower to CITPL pursuant to the Onshore Agreement or

the Offtake Agreement); and

- (e) ~~(d)~~ Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL ADVANCE**

The DIP Lender’s agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the

CONDITIONS:

“**Initial Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached hereto as Schedule “**D**” and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the “**DIP Lender Charge**”) on the Borrower’s Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower’s Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;
- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT ADVANCE CONDITIONS:**

The DIP Lender’s agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the “**Subsequent Advance Conditions**”), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an amended and restated Initial Order (the “**Amended and Restated Initial Order**”), and the Court shall have issued a Court Order (the “**DIP Amendment Order**”) approving this Term Sheet and authorizing and empowering the Borrower to borrow hereunder, in substantially the form attached hereto as Schedule “**E**”, and the Borrower shall provide to the DIP Lender the Borrower’s updated cash flow forecast, which shall be acceptable to the DIP Lender, for the period up to June 30, 2024, each with such changes as are acceptable to the Borrower, the

Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;

- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the "**DIP Lender Expenses**") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS:**

All Collateral will be free and clear of all Liens, except for the Permitted

AND PRIORITY: Liens.

12. **REPAYMENT:** The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND VARIANCE REPORTING:** Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the

DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining

commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000 (the “**Initial Exit Fee**”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order and (ii) a subsequent exit fee, in cash, in an amount equal to 2.00% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to \$1,050,000 (the “**Subsequent Exit Fee**” and together with the Initial Exit Fee, collectively, the “**Exit Fees**”) provided that the Subsequent Exit Fee shall only be payable if the DIP Facility as amended and restated by this Term Sheet, is approved pursuant to the DIP Amendment Order.

18. **CURRENCY:**

Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **MANDATORY REPAYMENTS:**

Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.

20. **REPS AND WARRANTIES:**

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:

- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;

- (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
 - (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
 - (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
 - (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
 - (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
 - (h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
 - (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults

arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);

- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and
- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. **AFFIRMATIVE COVENANTS:**

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the

Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in

respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement, except (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order;
- (t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a

judgment in excess of \$100,000;

- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

**22. NEGATIVE
COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;
- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior

officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;

- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;

- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

23. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim any of the Existing Arrangements, except (if permitted under the CCAA) ~~any of the Existing Arrangements (which, for greater certainty, shall not include (i) the commencement and prosecution of the SISP or (ii) the taking any step or related action pursuant to a binding agreement entered into in respect of a Restructuring Transaction at or after the bid deadline under the SISP, including executing such agreement, seeking court approval of such binding agreement or taking any steps in connection with consummating the Restructuring Transaction pursuant to such binding agreement, in each case at or after the bid deadline under the SISP)~~ pursuant to a Court Order, and the taking of steps to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA

or otherwise;

- (e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;
- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied,

discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. TERMINATION BY

The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the

BORROWER:

Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. HEDGING:

The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.

28. TAXES:

All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower’s

expense.

29. **[RESERVED]**

30. **ASSIGNMENT:**

The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

31. **AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____

Name:

Title:

Per: _____

Name:

Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCA**” has the meaning given thereto in the recitals.

“**CCA Proceedings**” has the meaning given thereto in the recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including June 30, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fees) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fees**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Exit Fee**” has the meaning given thereto in Section 17.

“**Initial Order**” has the meaning given thereto in the recitals.

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of such Borrower, and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and, for certainty, includes the Offtake Agreement and the Onshore Agreement.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge, (iv) Liens existing prior to the Filing Date, and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

“**SISP**” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“**Subsequent Exit Fee**” has the meaning given thereto in Section 17.

“**Tacora**” has the meaning given thereto in the recitals.

“**Taxes**” has the meaning given thereto in Section 28.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Withholding Taxes**” has the meaning given thereto in Section 28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for Subsequent Advance (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

SCHEDULE "D"
INITIAL ORDER

See attached.

SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.

SCHEDULE "F"
FORM OF DIP AMENDMENT ORDER

See attached.

AMENDED AND RESTATED DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of March 7, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet, in its entirety and without novation, in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “**A**”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$127,500,000 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget.

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “**B**” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING**

ARRANGEMENTS:

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement) under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and

all such Margin Advances shall be secured by the DIP Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through April 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof;
- (d) Pay for all iron ore delivered by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement pursuant to the terms of such agreements for the duration of this agreement without any set-off in respect of any damages claim that CITPL may assert against the Borrower or its affiliates provided that such damages are the result of treatment of the Onshore Agreement or the Offtake Agreement, to the extent permitted under the CCAA, pursuant to a Court Order (and for certainty, the foregoing restriction on set-off shall not apply to post-filing amounts payable by the Borrower to

CITPL pursuant to the Onshore Agreement or the Offtake Agreement); and

- (e) Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Initial Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached hereto as Schedule "**D**" and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the "**DIP Lender Charge**") on the Borrower's Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower's Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;
- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Subsequent Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an amended and restated Initial Order (the "**Amended and Restated Initial Order**"), and the Court shall have issued a Court Order (the "**DIP Amendment Order**") approving this Term Sheet and authorizing and empowering the Borrower to borrow hereunder, in substantially the form attached hereto as Schedule "**E**", and the Borrower shall provide to the DIP Lender the Borrower's updated cash flow forecast, which shall be

acceptable to the DIP Lender, for the period up to June 30, 2024, each with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;

- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the "**DIP Lender Expenses**") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS:
AND PRIORITY:** All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:** The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND VARIANCE REPORTING:** Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of

\$75,000,000, being equal to \$2,250,000 (the “**Initial Exit Fee**”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order and (ii) a subsequent exit fee, in cash, in an amount equal to 2.00% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to \$1,050,000 (the “**Subsequent Exit Fee**” and together with the Initial Exit Fee, collectively, the “**Exit Fees**”) provided that the Subsequent Exit Fee shall only be payable if the DIP Facility as amended and restated by this Term Sheet, is approved pursuant to the DIP Amendment Order.

18. **CURRENCY:** Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.
19. **MANDATORY REPAYMENTS:** Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.
20. **REPS AND WARRANTIES:** The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:
- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
 - (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;

- (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
 - (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
 - (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
 - (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
 - (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
 - (h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
 - (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults

arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);

- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and
- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. AFFIRMATIVE COVENANTS:

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each

acting reasonably, are necessary to protect the Borrower's restructuring process;

- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of

any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement, except (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order;

- (t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. **NEGATIVE
COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;

- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory

authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;

- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

23. **EVENTS OF DEFAULT:**

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim any of the Existing Arrangements, except (if permitted under the CCAA) pursuant to a Court Order, and the taking of steps to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;
- (e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA

Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the

Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. TERMINATION BY BORROWER:

The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances

and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. **HEDGING:** The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.

28. **TAXES:** All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower’s expense.

29. **[RESERVED]**

30. **ASSIGNMENT:** The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if

CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

**31. AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____

Name:

Title:

Per: _____

Name:

Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCAA**” has the meaning given thereto in the recitals.

“**CCAA Proceedings**” has the meaning given thereto in the recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including June 30, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fees) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fees**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Exit Fee**” has the meaning given thereto in Section 17.

“**Initial Order**” has the meaning given thereto in the recitals.

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of such Borrower, and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and, for certainty, includes the Offtake Agreement and the Onshore Agreement.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge, (iv) Liens existing prior to the Filing Date, and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

“**SISP**” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“**Subsequent Exit Fee**” has the meaning given thereto in Section 17.

“**Tacora**” has the meaning given thereto in the recitals.

“**Taxes**” has the meaning given thereto in Section 28.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Withholding Taxes**” has the meaning given thereto in Section 28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for Subsequent Advance (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

SCHEDULE "D"
INITIAL ORDER

See attached.

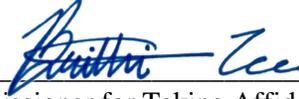
SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.

SCHEDULE "F"
FORM OF DIP AMENDMENT ORDER

See attached.

**THIS IS EXHIBIT "N" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Britta Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

From: [Chadwick, Robert](#)
To: joe.broking@tacoraresources.com; heng.vuong@tacoraresources.com; [Ashley Taylor](#); [Lee Nicholson](#); [Descours, Caroline](#)
Cc: [Project Element 2023](#); [Chetan Bhandari](#); [Michael Nessim](#); [Usman Masood](#); [Charles Geizhals](#); [Bishop, Paul](#); [McIntyre, Graham](#); [Ryan Jacobs \(rjacobs@cassels.com\)](mailto:rjacobs@cassels.com); [Jane Dietrich \(jdietrich@cassels.com\)](mailto:jdietrich@cassels.com); [Jodi Porepa](#); [Dedic, Dan](#); [Matthew Lehtinen](#); [Paul Carrelo](mailto:Paul.Carrelo); [Alanna Weifenbach@cargill.com](mailto:Alanna.Weifenbach@cargill.com); [Jeremy Matican](#)
Subject: Re: T
Date: Saturday, March 9, 2024 7:27:01 AM

We would appreciate an update as to status of matters with respect to the dip matters. As you are aware, we advanced our amended and extended financing proposal in good faith at the request of Tacora. There has been limited engagement or discussions from Tacora or its advisors with Cargill. We have remained committed to put in place the proper dip to ensure the Company has stability, Tacora incurs limited legal fees (we would expect our legal fees for the amendment and completion to be less than \$ 15, 000) and we address any operational matters- all for the benefit of Tacora. To the extent there are other changes or amendments proposed or required by Tacora, we are in a position to try to address them without delay. We also believe our dip amendment avoids any material litigation disputes with the stakeholders which will cost time and professional fees- which we believe should be avoided (and factored into by Tacora and the Monitor) by Tacora at this stage. We remain open to solve all matters for the benefit of Tacora and its stakeholders. We are also prepared to address a fair and proper schedule and any interim or incremental funding needed to ensure all stakeholders are given a fair opportunity to consider dip matters as now a March 18 hearing (with no service of any materials and Tacora having a requirement to deliver draft motion materials 2 days in advance to Cargill of the service list) may not provide the proper time for the motion to be heard if opposed by any party. We would be prepared to provide and amend the dip to provide such interim funding to ensure a proper and fair schedule to all parties. It now being early on Saturday morning and no response to our email below and no communication by the Monitor, Tacora or any of its advisors- we would request that Tacora or its advisors or the Monitor or its advisors contact Cargill or its advisors directly by phone to discuss matters so we can avoid any disputes and address any concerns of Tacora and Cargill in the most efficient way with the goal to avoid additional disputes. As you know, we had suggested in early February, all parties agree to a proper schedule for the hearing on March 18 to ensure we were fair to all parties. Tacora resisted such approach. We remain open and committed to solve problems and to address any disputes in a fair and reasonable fashion. Based on the circumstances and Cargill being the dip lender, we are confident with proper discussion and communication this can be achieved for all parties. Rob

Robert J. Chadwick

Goodmans LLP

[416.597.4285](tel:416.597.4285)

rchadwick@goodmans.ca

Bay Adelaide Centre

[333 Bay Street, Suite 3400](#)

[Toronto, ON M5H 2S7](#)

goodmans.ca

On Mar 8, 2024, at 11:05 AM, Descours, Caroline <cdescours@goodmans.ca> wrote:

Hi Lee,

Following up on this for an update? Please let us know.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>

Sent: Thursday, March 7, 2024 10:56 AM

To: Descours, Caroline <cdescours@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023

<ProjectElement2023@greenhill.com>; Chetan Bhandari

<chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>;

Usman Masood <usman.masood@greenhill.com>; Charles Geizhals

<charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>;

McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs

(<rjacobs@cassels.com> <rjacobs@cassels.com>); Jane Dietrich (<jdietrich@cassels.com>

<jdietrich@cassels.com>); Jodi Porepa <jodi.porepa@fticonsulting.com>

Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Dedic, Dan <ddedic@goodmans.ca>;

Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo

<Paul_Carrelo@cargill.com>; Alanna_Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican

<jmatican@jefferies.com>

Subject: RE: T

Thanks, confirming receipt.

Lee Nicholson

Direct: +1 416 869 5604

Mobile: +1 647 821 1931

Email: leenicholson@stikeman.com

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From: Descours, Caroline <cdescours@goodmans.ca>

Sent: Thursday, March 7, 2024 10:01 AM

To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor

<ATAYLOR@stikeman.com>; Project Element 2023

<ProjectElement2023@greenhill.com>; Chetan Bhandari

<chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>;

Usman Masood <usman.masood@greenhill.com>; Charles Geizhals

<charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>;

McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (<rjacobs@cassels.com>) <rjacobs@cassels.com>; Jane Dietrich (<jdietrich@cassels.com>) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Dedic, Dan <ddedic@goodmans.ca>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican <jmatican@jefferies.com>

Subject: RE: T

Hi Lee,

Please see attached comments on the form of DIP amendment. For reference and ease of review, we've included a blackline to the Stikemans version from yesterday afternoon, and a blackline to the prior Cargill version. We understand there is a Board meeting scheduled for later today. If there are any questions or clarifications that would be helpful to discuss in advance of the meeting, please let us know and we are available to discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>

Sent: Wednesday, March 6, 2024 5:51 PM

To: Descours, Caroline <cdescours@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (<rjacobs@cassels.com>) <rjacobs@cassels.com>; Jane Dietrich (<jdietrich@cassels.com>) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Dedic, Dan <ddedic@goodmans.ca>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican <jmatican@jefferies.com>

Subject: RE: T

Thanks Caroline – I should mention that we intend to review again with the Board during the day tomorrow and need a response as soon as possible, but tomorrow morning at latest. Thanks.

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

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From: Descours, Caroline <cdescours@goodmans.ca>
Sent: Wednesday, March 6, 2024 5:49 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Dedic, Dan <ddedic@goodmans.ca>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>
Subject: RE: T

Hi Lee,

Confirming receipt. We will review with Cargill and revert back.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Wednesday, March 6, 2024 4:39 PM
To: Descours, Caroline <cdescours@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com> <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com> <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Dedic, Dan <ddedic@goodmans.ca>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo

<Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican
<jmatican@jefferies.com>

[REDACTED]

From: Descours, Caroline <cdescours@goodmans.ca>

Sent: Wednesday, March 6, 2024 8:17 AM

To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor

<ATAYLOR@stikeman.com>; Project Element 2023

<ProjectElement2023@greenhill.com>; Chetan Bhandari

<chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>;

Usman Masood <usman.masood@greenhill.com>; Charles Geizhals

<charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>;

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(rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com)

<jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Dedic, Dan <ddedic@goodmans.ca>;

Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo

<Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican

<jmatican@jefferies.com>

Subject: RE: T

Good morning,

We are following up on the below for any update on timing, next steps or otherwise that can be provided given the current status and timing of matters.

If helpful to schedule a call today, please let us know.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Descours, Caroline

Sent: Monday, March 4, 2024 9:33 AM

To: Lee Nicholson <leenicholson@stikeman.com>

Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (<rjacobs@cassels.com>) <rjacobs@cassels.com>; Jane Dietrich (<jdietrich@cassels.com>) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>; Dedic, Dan <ddedic@goodmans.ca>

Subject: RE: T

Hi Lee,

Please see attached comments on the form of DIP amendment. We confirm no further Cargill internal approvals required on the attached. We also note that we do not anticipate any material legal fees in connection with the implementation of this DIP amendment.

Please let us know if helpful to discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Descours, Caroline

Sent: Sunday, March 3, 2024 5:39 PM

To: Lee Nicholson <leenicholson@stikeman.com>

Cc: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>; Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: Re: T

Hi Lee,

We have a mark up of the agreement with Cargill and plan to get back to you early tomorrow as we're just dealing with some time zones.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

416.597.6275

On Mar 3, 2024, at 1:28 PM, Lee Nicholson <leenicholson@stikeman.com> wrote:

Caroline – have you been able to review with Cargill? Please let us know if you have any comments on the markup. Additionally, we expect that the DIP proposal would not be subject to further internal approval when considered by Tacora's board. Thanks.

Lee Nicholson

Direct: +1 416 869 5604

Mobile: +1 647 821 1931

Email: leenicholson@stikeman.com

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From: Descours, Caroline <cdescours@goodmans.ca>

Sent: Friday, March 1, 2024 11:26 AM

To: Lee Nicholson <leenicholson@stikeman.com>; Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>

Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna_Weifenbach@cargill.com; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023

<ProjectElement2023@greenhill.com>; Chetan Bhandari
<chetan.bhandari@greenhill.com>; Michael Nessim
<michael.nessim@greenhill.com>; Usman Masood
<usman.masood@greenhill.com>; Charles Geizhals
<charles.geizhals@greenhill.com>; Bishop, Paul
<Paul.Bishop@fticonsulting.com>; McIntyre, Graham
<Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com)
<rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com)
<jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>

Subject: RE: T

Thanks Lee. We will review with Cargill and revert back to you on the below comments and requests. We need to review with Cargill but we do not expect any delays on timing on any internal approvals. Cargill remains willing to work towards acceptable DIP terms with the Company to ensure it has the required liquidity and stability. We will reach out if we think a call will be helpful to further discuss.

Thank you.

Caroline Descours

(she/her)

Goodmans LLP

[416.597.6275](tel:416.597.6275)

From: Lee Nicholson <leenicholson@stikeman.com>
Sent: Friday, March 1, 2024 9:45 AM
To: Chadwick, Robert <rchadwick@goodmans.ca>; Ashley Taylor <ATAYLOR@stikeman.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs (rjacobs@cassels.com) <rjacobs@cassels.com>; Jane Dietrich (jdietrich@cassels.com) <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: RE: T

Thank you for your DIP extension / amendment proposal. Please find attached an amended and restated DIP facility term sheet incorporating certain of the concepts from your proposal and including certain other amendments requested

by the Company. The key change is the deletion of the covenants related to the Existing Arrangements, which we do not believe are appropriate at this stage of the CCAA proceedings. Additionally, the fee proposed by Cargill is excessive given the anticipated short term nature of this DIP facility. The attached remains subject to further review / comment by the Company and the Monitor.

We would ask that you consider these changes and let us know if Cargill is willing to provide financing on these terms. We are happy to discuss.

Additionally, could you confirm that no further internal approvals are required by Cargill to increase the commitment amount under the DIP Facility?

Thank you,

Lee

Lee Nicholson

Direct: +1 416 869 5604
Mobile: +1 647 821 1931
Email: leenicholson@stikeman.com

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From: Chadwick, Robert <rchadwick@goodmans.ca>
Sent: Wednesday, February 28, 2024 12:04 PM
To: Lee Nicholson <leenicholson@stikeman.com>; Ashley Taylor <ATAYLOR@stikeman.com>
Cc: Matthew Lehtinen <Matthew_Lehtinen@cargill.com>; Paul Carrelo <Paul_Carrelo@cargill.com>; Alanna Weifenbach <Alanna_Weifenbach@cargill.com>; Descours, Caroline <cdescours@goodmans.ca>; Jeremy Matican <jmatican@jefferies.com>; Project Element 2023 <ProjectElement2023@greenhill.com>; Chetan Bhandari <chetan.bhandari@greenhill.com>; Michael Nessim <michael.nessim@greenhill.com>; Usman Masood <usman.masood@greenhill.com>; Charles Geizhals <charles.geizhals@greenhill.com>; Bishop, Paul <Paul.Bishop@fticonsulting.com>; McIntyre, Graham <Graham.McIntyre@fticonsulting.com>; Ryan Jacobs <rjacobs@cassels.com>; Jane Dietrich <jdietrich@cassels.com>; Jodi Porepa <jodi.porepa@fticonsulting.com>
Subject: T

As per the request of Tacora, please find enclosed our letter in respect of the dip extension/amendment. We are available to discuss and finalize matters as soon as Tacora is available. Rob

***** Attention *****

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[5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada](#)

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**THIS IS EXHIBIT "O" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Matthew Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

**NOTICE OF MOTION OF CARGILL, INCORPORATED AND CARGILL
INTERNATIONAL TRADING PTE LTD.**

Cargill, Incorporated and Cargill International Trading Pte Ltd. (together, “**Cargill**”) will make a Motion to a Judge presiding over the Commercial List on a date to be fixed by the Court, or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard in person, at 330 University Avenue, Toronto, ON, M5G 1R7.

THE MOTION IS FOR:

- (a) An Order declaring that Tacora Resources Inc. (“**Tacora**”) is prohibited from obtaining the relief set out in its Notice of Motion dated February 2, 2024 (the “**ARVO Motion**”) as it relates to the Offtake Agreement (as defined below) absent a valid disclaimer of the Offtake Agreement in accordance with s. 32 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the “**CCAA**”);

- (b) An Order setting a schedule for steps in the ARVO Motion (the “**Schedule**”) subject to the outcome of the within motion;
- (c) An Order setting a date in February 2024 for Tacora’s motion to extend the stay and address DIP funding, with a schedule and return date for all parties to be able to properly respond;
- (d) An Order requiring Tacora, the Monitor, Cargill and Tacora’s other secured creditors, including the ad hoc group of noteholders (the “**Ad Hoc Group**”), RCF VII CAD LLC (an affiliate of Resource Capital Fund VII L.P., “**RCF**”) and Javelin Global Commodities (SG) Pte Ltd. (“**Javelin**”), to attend mediation on terms set by the mediator selected by this Court, which mediation is to be pursued and held in parallel with the steps set out in the Schedule, in order to attempt to reduce the issues outstanding between the parties in respect of the ARVO Motion and the CCAA proceedings;
- (e) to the extent necessary, an Order abridging the time for service and filing, or dispensing with or validating service, of the within motion and materials related thereto; and
- (f) Such further and other relief as counsel may advise and that to this Honourable Court may seem just (collectively referred to as the “**Preliminary Threshold Motion**”).

THE GROUNDS FOR THE MOTION ARE:

Tacora Cannot Avoid the Issue of Disclaimer Under Section 32 of the CCAA

- (a) This motion concerns a threshold question: whether or not Tacora’s ARVO Motion for approval of a reverse vesting order can be granted if Tacora has not complied with the requirements of s. 32 of the CCAA.
- (b) This motion is not about whether this Court can or should exercise its discretion under the CCAA to approve the reverse vesting order sought by the ARVO Motion. Rather, it is about whether the ARVO is available at all.
- (c) Tacora and Cargill are parties to an offtake agreement dated April 5, 2017 and restated on November 9, 2018, and as further amended from time to time, and a stockpile agreement dated December 17, 2019 (collectively, the “**Offtake Agreement**”).
- (d) Pursuant to the offtake agreement, Tacora sells 100% of the iron ore concentrate production at Tacora’s Scully Mine to Cargill. The sale of the iron ore concentrate is also subject to the stockpile agreement, which works in conjunction with the offtake agreement.
- (e) The Offtake Agreement provides that it cannot be assigned without Cargill’s consent, and contains limited termination rights. It remains in effect. Tacora has not issued any notice pursuant to the CCAA or otherwise to Cargill to disclaim the Offtake Agreement.

- (f) The ARVO Motion contemplates a transaction for Tacora’s shares (not an asset sale), whereby Tacora would emerge from CCAA without the Offtake Agreement.
- (g) The ARVO Motion asks the Court to approve that the Offtake Agreement and its associated obligations be transferred to a corporation incorporated by Tacora (“**ResidualCo**”) as part of the series of steps and transactions contemplated by the Ad Hoc Group bid, pursuant to which ResidualCo would be unable to perform the obligation of Tacora under the Offtake Agreement. The effect of such transfer would be to create an unsecured damages claim in favour of Cargill against ResidualCo that would not be satisfied (the “**Proposed Cargill Offtake Claim**”).
- (h) The Ad Hoc Group bid contemplated by the ARVO Motion provides for: (i) payment or satisfaction in full of all secured claims that could arise against Tacora; and (ii) payment or satisfaction of all or nearly all of the unsecured claims of Tacora (other than the Proposed Cargill Offtake Claim under the Ad Hoc Group bid). There are other potential alternatives for Tacora to maximize value and emerge from CCAA successfully, including a proposed transaction from Cargill.
- (i) One way to accomplish the share transaction proposed by Tacora in the ARVO Motion would be pursuant to a CCAA plan. But Tacora is not proposing a CCAA plan – notwithstanding that the ARVO Motion contemplates all of its secured debt obligations are being paid or satisfied in full, along with material recovery to unsecured creditors except potentially Cargill.

- (j) The only other way to complete a CCAA share transaction such as what Tacora is proposing is through a reverse vesting order structure.
- (k) If a Court is being asked to assign an existing contract with a CCAA debtor and the contract contains a restriction on assignment, such assignment must comply with s. 11.3 of the CCAA. The ARVO Motion does not contemplate Tacora assigning the Offtake Agreement to ResidualCo pursuant to s. 11.3 of the CCAA. The test for an assignment under s. 11.3 cannot be met, including because ResidualCo cannot fulfill the statutory requirement of being able to perform the obligations under the Offtake Agreement.
- (l) Where a CCAA debtor cannot comply with section 11.3 of the CCAA (as is the case here), s. 32 of the CCAA is the only procedural method for a CCAA debtor to be relieved of an existing contract and complete a share transaction as part of any CCAA proceeding. Section 32(7) provides that if the Offtake Agreement is disclaimed, the party suffering a loss (here, potentially, Cargill) “is considered to have a provable claim” in respect of its loss in relation to the disclaimer as against the CCAA debtor (here Tacora). Tacora proposes with the ARVO Motion that Cargill will never have a claim against Tacora, contrary to the CCAA and the terms of the Offtake Agreement.
- (m) Cargill has been clear throughout this CCAA proceeding on its position that the Offtake Agreement cannot be disclaimed or resiliated or otherwise transferred as part of a Tacora share transaction without the consent of Cargill. Tacora seeks to

sidestep that issue entirely in the ARVO Motion by purporting to transfer the Offtake Agreement to ResidualCo.

- (n) This Court cannot exercise its discretion under s. 11 of the CCAA to grant the reverse vesting order contemplated by the ARVO Motion, without Tacora having first complied with s. 32 of the CCAA.
- (o) The issue of whether the Offtake Agreement can be disclaimed under s. 32 of the CCAA will not be dealt with on the Preliminary Threshold Motion. In the circumstances of this proceeding, the CCAA requires that this threshold issue – determining that Tacora cannot be granted the relief sought by the ARVO Motion without complying with s. 32 of the CCAA in respect of the Offtake Agreement – be determined now and not deferred to the hearing of the ARVO Motion seeking approval of a share transaction using a reverse vesting order which is an “exceptional” remedy.

Cargill’s Schedule Should be Ordered

- (p) Cargill has proposed the Schedule for the hearing of the ARVO Motion. The Schedule should be set so that, should the ARVO Motion proceed and subject to the result of the Preliminary Threshold Motion, the Schedule can provide the parties with a fair process in order to reach a hearing of the ARVO Motion.

Motion to Extend Stay Should Happen in February 2024

- (q) The current stay period expires March 18, 2024.

- (r) Well in advance of that date, namely in February 2024, Tacora should bring a motion to extend the stay period and provide evidence it has DIP funding which supports its requested stay extension.

Mediation Should be Ordered

- (s) Given the numerous legal and factual issues raised by the ARVO Motion, and the significant number of litigation steps that are required to address those issues, a Court-ordered mediation would be in the best interests of all parties. Mediation would permit all parties, including Tacora, the Ad Hoc Group, and Cargill, an opportunity to resolve or narrow issues that require resolution at the ARVO Motion or in this CCAA proceeding, all with the goal of saving time and professional fees, and reducing the need for Court time.
- (t) Court-ordered mediation is common in CCAA proceedings and have been proven to be a successful and effective tool.
- (u) The proposed mediation is to be pursued and held in parallel with any steps required for the hearing of the Preliminary Threshold Motion and the ARVO Motion, so as to not delay the hearing of the Preliminary Threshold Motion or the ARVO Motion.
- (v) Sections 11, 11.02, 11.3, 32 and 36 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36.
- (w) Rules 1.04, 1.05, 2.03, 3.02, 16, 17, 37, 38 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

- (x) Section 97 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.
- (y) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

- (a) Affidavit of Brennan Caldwell, sworn February 5, 2024, and the exhibits thereto including the Notice of Motion of Tacora dated February 2, 2024;
- (b) The Schedule proposed by Cargill; and
- (c) Such further and other evidence as counsel may advise and this Honourable Court may permit.

February 5, 2024

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Lawyers for Cargill, Incorporated and Cargill
International Trading Pte Ltd.

TO: **THE SERVICE LIST**

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding Commenced At Toronto

NOTICE OF MOTION

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Pte Ltd.

**THIS IS EXHIBIT "P" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Matthew Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

**AIDE MEMOIRE OF CARGILL, INCORPORATED AND CARGILL
INTERNATIONAL TRADING PTE LTD.
(Case Conference – February 6, 2024)**

February 5, 2024

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International Trading Pte Ltd.

TO: **THE SERVICE LIST**

1. While Tacora Resources Inc. (“**Tacora**”) and a consortium including an ad hoc group of noteholders (collectively the “**Ad Hoc Group**”) present their motion for approval of an Approval and Reverse Vesting Order (the “**ARVO Motion**”) as a straightforward approval of a winning bid, it would in fact be precedent-setting relief in the reverse vesting order context.
2. Reverse vesting orders are to be used sparingly and exceptionally and only when there has been compliance with the CCAA and a long list of factors are satisfied.
3. Never has there been an attempt to use a reverse vesting order for the purpose of ridding a debtor company of a contract it has not disclaimed, to avoid having to deal with a substantial creditor on a plan, and to pay all material unsecured creditors other than the holder of the contract which is being transferred and put into a company which has no assets or money and no ability to perform the contract. What is proposed is repugnant to the objectives and scheme of the CCAA.
4. There are, and Tacora and the Ad Hoc Group must reasonably have anticipated that, there would be many important and novel issues to be dealt with given the structure of their share transaction they seek approved in the ARVO Motion. There are also serious concerns about the sale process. The concerns of Cargill, Incorporated and Cargill International Trading Pte Ltd. (together, “**Cargill**”) have long been known to Tacora, the Ad Hoc Group and the Monitor. The suggestion that Cargill should by reason of any foreknowledge of potential issues have been prepared for an unreasonably compressed Court process, rather than Tacora structuring matters so that issues could be appropriately litigated, is untenable.
5. A key issue is that the stay expires on March 18 and Tacora has not filed a motion or presented cashflows to support any extension. A stay extension is paramount to Tacora’s stability, and cannot be avoided even on (and is not even contemplated by) Tacora’s unreasonable schedule. Since Tacora and the Ad Hoc Group assert potential financial calamity as a basis for their rushed process, such a stay extension motion should proceed immediately, with the benefit of a report from the Monitor, before setting a schedule for the ARVO Motion, so the Court has an understanding of Tacora’s ability to operate in all

circumstances for an extended period of time. The ARVO Motion may not be approved, conditions may not be satisfied, or the opposed process may take a longer period of time. Tacora should have its financial foundation in place immediately to ensure its stability for the benefit of all stakeholders – this should be Tacora’s immediate focus. A litigation schedule can be set on the return of that stay motion with proper cashflows and evidence. At a minimum, the litigation schedule should not be set until the Monitor has filed a report on Tacora’s proposed cashflows.

6. Cargill has served, as Tab 3 of its Motion Record dated February 5, 2024 (the “**Cargill Motion Record**”), a list of issues that need to be addressed (along with the estimated time required by all parties to argue the particular issue):
 1. Factual matters that are in dispute (4 hours).
 2. The conduct of the sales process and related sale process issues (3 hours).
 3. The valuation of Tacora (2 hours).
 4. Fairness and treatment of stakeholders (2 hours).
 5. The ability of Tacora, pursuant to the ARVO, to receive a reverse vesting order (5 hours).
 6. The ability of Tacora to set-off secured amounts due on closing to Cargill (1.5 hours).
 7. The ability of Tacora to obtain third-party releases outside of a CCAA plan (1.5 hours).
 8. The ability of Tacora, pursuant to the ARVO, to bind parties to a shareholders agreement pursuant to Court order (0.5 hours).
 9. Sealing of documents (0.5 hours)

10. Tacora's requirement to comply with the disclaimer provisions of s. 32 of the CCAA, and whether:

(a) the offtake agreement and stockpile agreement between Tacora and Cargill (collectively, the "Offtake Agreement") are eligible financial contracts or financing agreements (3.5 hours); and

(b) whether the disclaimer or resiliation of the Offtake Agreement would enhance the prospects of a viable compromise or arrangement of Tacora (1.5 hours).

7. These substantial issues concern factual and legal matters particular to the structure of the Ad Hoc Group's proposed share transaction with Tacora. Cargill only learned details last week. Cargill could not reasonably have prepared in advance to address them.
8. Tab 3 of the Cargill Motion Record also contains Cargill's proposed schedule for the hearing of the ARVO Motion, which is fair and reasonable.
9. In contrast, Tacora's schedule is neither fair nor reasonable.
10. For example, Tacora originally proposed a schedule giving Cargill 6 business days to marshal a responding record, including any expert report responding to Tacora's expert report only provided on the evening of Friday, February 2. Tacora's revised schedule provides for an extra 8 business days, which is not sufficient.
11. Tacora also proposes that Tacora and the other supporting parties serve their factums on March 12 (the Tuesday of the March break) and that Cargill have 4 business days to respond on March 18 (the Monday right after March break).
12. Tacora proposes 1 day for the hearing of the ARVO Motion, when at least 3 are needed.
13. What is clear, because the proposed transaction is a credit bid by the Ad Hoc Group, is that the Ad Hoc Group will not walk away if they have to extend the closing of any transaction by a month or two.

14. Instead of providing ample room for determination of the issues necessary to fairly address its ARVO Motion, Tacora asserts an arbitrary and self-imposed deadline of April 1 to have the ARVO Motion decided by this Court, and then insists that Cargill compromise its procedural rights to meet that artificial deadline. There is no evidence before the Court as to how the April 1 deadline was arrived at. A fair process is paramount versus a condition imposed by a buyer.
15. Tab 3 of the Cargill Motion Record contains Cargill's proposed schedule for the hearing of the ARVO Motion. Cargill's proposed schedule is reasonable and there can be no argument that, but for the arbitrary and self-imposed April 1 deadline, there could be no objection to it.
16. What Tacora and the Ad Hoc Group seem to want to do is get to court on March 25, with an April 1 deadline looming, and urge the Court to turn aside objections to the fairness of the transaction and the process, along with significant legal issues, on the basis that there is no time to fix them.
17. Additionally, Cargill has served in a timely manner (given that it only received draft materials from Tacora mid-last week) a preliminary threshold motion for a declaration that Tacora's proposed transaction with the Ad Hoc Group is not available to Tacora absent a valid disclaimer of the Offtake Agreement in accordance with s. 32 of the CCAA (the "**Preliminary Threshold Motion**"). Cargill's notice of motion on the Preliminary Threshold Motion, found at Tab 1 of the Cargill Motion Record, details why this Court cannot even get to the exercise of its discretion under s. 11 of the CCAA to grant the reverse vesting order contemplated by the ARVO Motion, without Tacora having first complied with s. 32 of the CCAA (which Tacora's proposed litigation schedule would not permit it to do). The Preliminary Threshold Motion raises a threshold, gating issue.
18. It is not in the interests of stakeholders, other than the Ad Hoc Group, to come to the ARVO Motion only to learn then that the proposed transaction was never available. If there is truly time sensitivity to getting a deal done, as Tacora and the Ad Hoc Group want the Court to

believe, then having the Preliminary Threshold Motion resolved early would seem vastly preferable.

19. If the reversing vesting order is not granted at the ARVO Motion and Tacora wants to proceed with an asset transaction with the Ad Hoc Group, Tacora would have to open up negotiations with the Ad Hoc Group, enter into a new asset purchase agreement (versus the Subscription Agreement that Tacora has signed), and file an entirely motion. The entire process may have to start over again from the beginning to seek approval of that new asset transaction (including, potentially, responding materials, new examinations and new factums). It is clearly preferable to determine upfront the Preliminary Threshold Motion, which if decided now, will allow the Court to put the right schedule in place, and to schedule any remaining proceedings after there has been a Monitor's report updating Tacora's cashflows for a reasonable period of time. To push, at this time, all matters to an approval hearing with an unduly compressed schedule where the exceptional remedy of a reverse vesting order is being sought (and being opposed by Cargill, a fulcrum stakeholder) and where if granted that remedy would be precedent setting based on the facts and circumstances of the Tacora case, cannot be the right solution to a CCAA restructuring.
20. Cargill has the right to bring the Preliminary Threshold Motion. It believes that early determination is vital to ensure that the outcome in these proceedings is both optimal and fair.
21. Fundamentally, the process has to be fair and reasonable and the rights of Cargill need to be considered before a Court is asked to terminate and reverse vest a long-term agreement (contrary to the requirements of the CCAA) for no consideration. Fairness and process must be paramount.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding Commenced At Toronto

**CARGILL AIDE MEMOIRE
(CASE CONFERENCE – FEBRUARY 6, 2024)**

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Lawyers for Cargill, Incorporated and Cargill International Trading
Pte Ltd.

**THIS IS EXHIBIT "Q" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Matthew Lee".

Commissioner for Taking Affidavits

AMENDED AND RESTATED INTERIM DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of March 18, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet, in its entirety and without novation, in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “**A**”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount to be agreed by the Borrower, the DIP Lender and the Monitor as at the date hereof (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget and provided that no Subsequent Advances shall be made while the Borrower’s cash on hand is above \$15,000,000 (or such other amount as agreed by the Borrower, the Monitor and the DIP Lender).

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “**B**” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING ARRANGEMENTS:**

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement)

under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through April 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof;
- (d) Pay for all iron ore delivered by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement pursuant to the terms of such agreements for the duration of this agreement without any set-off in respect of any damages claim that CITPL may assert against the Borrower or its affiliates provided that such damages are the result of treatment of the Onshore Agreement or the Offtake Agreement, to the extent permitted under the CCAA, pursuant to a Court Order (and for certainty, the foregoing restriction on set-off

shall not apply to post-filing amounts payable by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement); and

- (e) Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person other than the Borrower, the Monitor and the DIP Lender, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Initial Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached hereto as Schedule "**D**" and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the "**DIP Lender Charge**") on the Borrower's Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower's Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;
- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Subsequent Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an amended and restated Initial Order in substantially the form attached hereto as Schedule "**E**" (the "**Amended and Restated Initial Order**"), and the Court shall have issued a Court Order (the "**Interim DIP Amendment Order**") approving this Term Sheet on an interim basis, pending the return of the Borrower's DIP replacement motion and the DIP Lender's responding cross-motion, and authorizing and empowering the

Borrower to borrow hereunder, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably, including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;

- (b) The Amended and Restated Initial Order and the Interim DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the "**DIP Lender Expenses**") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS:**

All Collateral will be free and clear of all Liens, except for the Permitted

AND PRIORITY: Liens.

12. **REPAYMENT:** The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND VARIANCE REPORTING:** Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the

DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fee) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month, provided that from and after the granting of the Interim DIP Amendment Order, the Borrower shall have the right to defer the payment of accrued interest to the DIP Lender in respect of any month and instead capitalize such interest by adding such interest to the principal amount of the DIP Obligations on the last Business Day of each applicable month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the

basis for such determination.

17. **EXIT FEE:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000 (the “**Exit Fee**”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order.
18. **CURRENCY:** Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.
19. **MANDATORY REPAYMENTS:** Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.
20. **REPS AND WARRANTIES:** The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:
- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;
 - (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the

- Borrower, enforceable against the Borrower in accordance with their terms;
- (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
 - (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
 - (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
 - (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
 - (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
 - (h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;
 - (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults

arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);

- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and
- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. AFFIRMATIVE COVENANTS:

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor),

each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the Interim DIP Amendment Order, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the CCAA Proceeding;
- (l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in

respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;

- (n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;
- (s) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement, except (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order;

- (t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. **NEGATIVE COVENANTS:**

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities, other than in connection with a Restructuring Transaction approved pursuant to a Court Order;
- (f) Consent to or take any steps in furtherance of the exercise of any

conversion right under any Equity Securities issued by it;

- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender Charge, except with the prior written consent of the DIP Lender, in its sole discretion;
- (o) Enter into any settlement agreement or agree to any settlement

arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;

- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

23. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim any of the Existing Arrangements, except (if permitted under the CCAA) pursuant to a Court Order, and the taking of steps to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the CCAA or otherwise;
- (e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to

pay pre-filing amounts as result of the commencement of the CCAA Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;

- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. REMEDIES:

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the

commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as “**Indemnified Persons**”) from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, “**Claims**”) as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. TERMINATION BY BORROWER:

The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations

that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. **HEDGING:** The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.

28. **TAXES:** All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower’s expense.

29. **[RESERVED]**

30. **ASSIGNMENT:** The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person

acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISF. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

**31. AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____
Name:
Title:

Per: _____
Name:
Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCAA**” has the meaning given thereto in the recitals.

“**CCAA Proceedings**” has the meaning given thereto in the recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including the week of May 19, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fee) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fee**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Order**” has the meaning given thereto in the recitals.

“**Interim DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of such Borrower, and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and, for certainty, includes the Offtake Agreement and the Onshore Agreement.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge, (iv) Liens existing prior to the Filing Date, and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

“**SISP**” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“**Tacora**” has the meaning given thereto in the recitals.

“**Taxes**” has the meaning given thereto in Section 28.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Withholding Taxes**” has the meaning given thereto in Section 28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for Subsequent Advance (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

Tacora Resources Inc.

Consolidated Cash Flow Projections

(\$USD in thousands)

Forecast Week Ending	10-Mar-24	17-Mar-24	24-Mar-24	31-Mar-24	07-Apr-24	14-Apr-24	21-Apr-24	28-Apr-24	05-May-24	12-May-24	19-May-24	Total	
Forecast Week	[1]	1	2	3	4	5	6	7	8	9	10	11	Total
Total Receipts	[2]	-	4,450	20,114	(4,399)	(3,088)	-	5,900	(314)	6,530	6,965	14,740	50,898
Operating Disbursements	[3]												
Employees		(680)	(2,035)	(207)	(2,160)	(285)	(2,147)	(676)	(2,073)	(286)	(2,155)	(206)	(12,910)
Mine, Mill and Site Costs		(1,052)	(3,475)	(1,705)	(2,522)	(955)	(1,664)	(1,041)	(6,883)	(993)	(1,863)	(704)	(22,858)
Plant Repairs and Maintenance		(2,783)	(2,354)	(3,198)	(2,104)	(2,164)	(2,164)	(2,090)	(2,090)	(2,672)	(2,172)	(2,098)	(25,888)
Logistics		(1,698)	(2,412)	(1,818)	(1,284)	(5,065)	(1,265)	(1,084)	(1,084)	(5,622)	(1,611)	(1,571)	(24,515)
Capital Expenditures		(43)	(1,600)	(1,200)	(1,403)	(1,000)	(1,000)	(1,000)	(1,203)	(1,100)	(1,100)	(1,100)	(11,749)
Other		(946)	(586)	(418)	(630)	(556)	(418)	(418)	(591)	(965)	(418)	(418)	(6,362)
Total Operating Disbursements		(7,202)	(12,462)	(8,546)	(10,103)	(10,024)	(8,658)	(6,309)	(13,925)	(11,638)	(9,318)	(6,097)	(104,282)
Net Cash from Operations		(7,202)	(8,012)	11,568	(14,502)	(13,112)	(8,658)	(409)	(14,239)	(5,109)	(2,353)	8,643	(53,384)
Restructuring Legal and Professional Costs	[4]	(752)	(1,398)	(1,109)	(1,740)	(1,285)	(693)	(518)	(693)	(749)	(619)	(444)	(9,999)
KERP	[5]	-	-	-	-	-	-	-	-	-	-	-	-
NET CASH FLOWS		(7,954)	(9,409)	10,459	(16,243)	(14,397)	(9,351)	(926)	(14,932)	(5,858)	(2,972)	8,200	(63,383)
Cash													
Beginning Cash Balance		27,025	19,070	9,661	52,438	36,196	21,798	50,448	49,521	34,589	43,732	40,760	27,025
Net Receipts/ (Disbursements)		(7,954)	(9,409)	10,459	(16,243)	(14,397)	(9,351)	(926)	(14,932)	(5,858)	(2,972)	8,200	(63,383)
Net DIP Advances/ (Repayments)	[6]	-	-	32,750	-	-	38,000	-	-	15,000	-	5,000	90,750
DIP Fees & Interest Payment	[7]	-	-	(432)	-	-	-	-	-	-	-	-	(432)
Ending Cash Balance		19,070	9,661	52,438	36,196	21,798	50,448	49,521	34,589	43,732	40,760	53,960	53,960

DIP Facility Opening Balance	75,000	75,000	75,000	-	-	-	-	-	-	-	-	-	75,000
Net DIP Advances/ (Repayments)	-	-	(75,000)	-	-	-	-	-	-	-	-	-	(75,000)
DIP Facility Ending Balance	75,000	75,000	-										
Opening Post-Filing Margin Advances	20,000	20,000	20,000	-	20,000								
Net Margin Advances/ (Repayments)	-	-	(20,000)	-	-	-	-	-	-	-	-	-	(20,000)
Ending Post-Filing Margin Advances	20,000	20,000	-										
Total DIP Facility and Post-Filing Margin Advances	95,000	95,000	-										
Replacement DIP Opening Balance	-	-	-	130,000	130,000	130,000	168,000	168,000	168,000	184,715	184,715	-	-
Net DIP Advances/ (Repayments)	-	-	32,750	-	-	38,000	-	-	15,000	-	5,000	90,750	90,750
Repayment of DIP Facility	-	-	75,000	-	-	-	-	-	-	-	-	75,000	75,000
Repayment of Post-Filing Margin Advances	-	-	20,000	-	-	-	-	-	-	-	-	20,000	20,000
Payment of DIP Facility Exit Fee	-	-	2,250	-	-	-	-	-	-	-	-	2,250	2,250
PIK Interest	[7]	-	-	-	-	-	-	-	1,715	-	708	2,423	2,423
Replacement DIP Ending Balance	-	-	130,000	130,000	130,000	168,000	168,000	168,000	184,715	184,715	190,423	190,423	190,423

Tacora Resources Inc.

Consolidated Cash Flow Projections

Notes to the Consolidated Cash Flow Projections:

- [1] The purpose of the Cashflow Projections is to estimate the liquidity requirements of Tacora Resources Inc. ("Tacora", or the "Company") during the forecast period. The forecast above is presented in US Dollars. Any estimates in Canadian dollars have been translated at an fx rate of 1.34.
- [2] Forecast Total Receipts are based on management's current expectations regarding productions and vessel shipments of iron ore concentrate (total tonnage) and price indices net of mark to market adjustments. Receipts from operations have been forecast based on current payment terms, historical trends in collections and expected vessel shipment schedules.
- [3] Operating disbursements include the following key categories:
Forecast Employee Costs are based on historic payroll amounts and future forecast payments.
Forecast Mine, Mill and Site Costs primarily include site costs based on forecast activity levels and known commitments including, utilities, fuel, and supplies and consumables.
Forecast Plant Repairs and Maintenance costs relate to Scully Mine. Plant repairs and maintenance also includes contract labour at the Scully Mine.
Forecast Logistics costs primarily include rail transportation costs as well as port-related payments.
Forecast Capital Expenditures include costs related to mine, milling, and other logistics / infrastructure improvements.
Forecast Other costs include environmental costs, security and other costs at the Scully Mine and corporate.
- [4] Forecast Restructuring Legal and Professional Costs include legal and financial advisors associated with the CCAA proceedings and are based on estimates.
- [5] Forecast Key Employee Retention Plan (KERP) consistent with the Initial Affidavit.
- [6] Forecast DIP Advances/Repayments reflect inflows and outflows pertaining to the DIP Facility, as well as the proposed Replacement DIP Facility, and are based on funding requirements per each DIP term sheet. The cash flow forecast above assumes a minimum cash balance throughout the period.
- [7] DIP Fees and Interest are calculated based on total draws. Forecast DIP Fees and Interest in weeks 1 to 3 relate to the DIP Facility. Forecast DIP Fees and Interest in weeks 4 to 11 relate to the proposed Replacement DIP Facility. Forecast DIP Fees and Interest from weeks 4 and beyond are reflected as payment in-kind (PIK) Interest.

SCHEDULE "D"
INITIAL ORDER

See attached.



Court File No. CV-23-00707394-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM

)

TUESDAY, THE 10TH

JUSTICE KIMMEL

)

DAY OF OCTOBER, 2023

)

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

INITIAL ORDER

THIS APPLICATION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCA**") was heard this day by judicial videoconference via Zoom.

ON READING the Notice of Application, the affidavit of Joe Broking sworn October 9, 2023, and the Exhibits thereto (the "**Broking Affidavit**"), the affidavit of Chetan Bhandari sworn October 9, 2023 (the "**Bhandari Affidavit**"), the consent of FTI Consulting Canada Inc. ("**FTI**") to act as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**"), the Pre-Filing Report of FTI, as the proposed Monitor, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for FTI and such other counsel and parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Natasha Rambaran, filed,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicant shall be entitled to continue to utilize the cash management system currently in place as described in the Broking Affidavit or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), and maintenance and security services;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and
- (c) payments and/or advances to Tacora Resources LLC to pay salaries and wages for U.S. based employees and rent for Tacora's head office located in Grand Rapids, Minnesota.

7. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind

which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

10. **THIS COURT ORDERS** that until and including October 20, 2023, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are

permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

12. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

NO PRE-FILING VS POST-FILING SET-OFF

13. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

15. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

16. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

17. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which obligation may become due and payable after the commencement of these proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

18. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$4,600,000, as security for the indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 36 and 38 herein.

19. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 17 of this Order.

APPOINTMENT OF MONITOR

20. **THIS COURT ORDERS** that FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

21. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and their counsel, pursuant to and in accordance with the DIP Agreement (as defined herein), or as may otherwise be agreed between the Applicant and the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender under the DIP Agreement, which information shall be reviewed with the Monitor and delivered to the DIP Lender and their counsel in accordance with the DIP Agreement;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant,

to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;

- (f) hold and administer funds in connection with arrangements made among the Applicant, any counterparties and the Monitor or by Order of this Court;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

22. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

23. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Newfoundland Environmental Protection Act*, the *Newfoundland Water Resources Act*, the *Newfoundland Occupational Health and Safety Act*, and the regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

24. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

25. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

27. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant's counsel and Greenhill & Co. Canada Ltd. ("**Greenhill**") for its Monthly Advisory Fee (as defined in the Engagement Letter dated as of January 23, 2023 between the Applicant and Greenhill) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 36 and 38 hereof.

DIP FINANCING

29. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow a super-priority, debtor-in-possession, non-revolving credit facility (the “**DIP Facility**”) under a DIP Loan Agreement dated October 9, 2023 (the “**DIP Agreement**”) from Cargill, Incorporated (in such capacity, the “**DIP Lender**”) in order to finance the Applicant’s working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Agreement shall not exceed the principal amount of US\$15,500,000 and Post-Filing Credit Extensions (as defined in the DIP Agreement) shall not exceed the principal amount of US\$20,000,000, unless permitted by further Order of this Court.

30. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement attached as Exhibit “K” to the Broking Affidavit.

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

32. **THIS COURT ORDERS** that the DIP Lender and Cargill International Trading Pte Ltd. (“**CITPL**”) shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Charge**”) on the Property, which DIP Charge shall not secure an obligation that exists before this Order is made, and in the case of CITPL, shall only secure Post-Filing Credit Extensions. The DIP Charge shall have the priority set out in paragraphs 36 and 38 hereof.

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

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP Lender may cease making advances to the Applicant and, upon four (4) business days’ notice to the Applicant and the Monitor, exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the

DIP Agreement, Definitive Documents and the DIP Charge, including without limitation, set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and

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

34. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act (Canada)* (the “**BIA**”), with respect to any advances made under the Definitive Documents.

35. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Agreement, the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a “**Variation**”), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lender, whether under this Order (as made prior to the Variation), under the DIP Agreement or the Definitive Documents with respect to any advances made or obligations incurred prior to the DIP Lender being given notice of the Variation, and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Agreement and the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

36. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge and the DIP Charge (the “**Charges**”), as among them, shall be as follows:

First – the Administration Charge (to the maximum amount of US\$1,000,000);

Second – the Directors’ Charge (to the maximum amount of US\$4,600,000); and

Third – the DIP Charge.

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

38. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person except for any Person with a property perfected Encumbrance on the Property who did not receive notice of the Application. The Applicant shall be entitled, on a subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrances over which the Charges have not obtained priority pursuant to this Order.

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

40. **THIS COURT ORDERS** that the Administration Charge, the Directors' Charge, the DIP Charge, the DIP Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

41. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

42. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition), a notice containing the information prescribed under the CCAA, (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

43. **THIS COURT ORDERS** that the Commercial List E-Service Guide (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://cfcanada.fticonsulting.com/tacora>.

44. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

45. **THIS COURT ORDERS** that the Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SORS/DORS).

GENERAL

46. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

47. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

48. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

49. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
50. **THIS COURT ORDERS** that a hearing for the balance of the relief sought by the Applicant in the Notice of Application is hereby scheduled before this Court for October 19, 2023 at 12:00 p.m. or such other date as determined by this Court.
51. **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP Lender) may apply to this Court to vary or amend this Order not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
52. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.
53. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

 Digitally signed
by Jessica Kimmel
Date: 2023.10.10
16:40:14 -04'00'

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.**

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

INITIAL ORDER

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Counsel to Tacora Resources Inc.

SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.

that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Cargill, Incorporated and Cargill International Trading Pte Ltd., and counsel for the Ad Hoc Group, and such other counsel and parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavits of service of Natasha Rambaran and the affidavit of service of Philip Yang, filed,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicant shall be entitled to continue to utilize the cash management system currently

in place as described in the Broking Affidavit or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses, and director fees of outside directors payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers’ insurance), and maintenance and security services;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and

- (c) payments on behalf of Tacora Resources LLC to pay salaries and wages for U.S. based employees and rent for the Applicant's head office located in Grand Rapids, Minnesota.

8. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan, and income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement and the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding US\$1,000,000 in any one transaction or US\$5,000,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of

the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including February 9, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

NO PRE-FILING VS POST-FILING SET-OFF

17. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

18. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed

property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which obligation may become due and payable after the commencement of these proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$5,200,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 46 and 49 herein.

23. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

ENGAGEMENT OF GREENHILL

24. **THIS COURT ORDERS** that the engagement of Greenhill & Co. Canada Ltd. (“**Greenhill**”) by the Applicant as investment banker pursuant to the engagement letter dated as of January 23, 2023 (the “**Greenhill Engagement Letter**”) and payment by the Applicant of the Monthly Advisory Fee (as defined in the Greenhill Engagement Letter) and the Transaction Fee (as defined in the Broking Affidavit) are hereby approved, subject to the priority provided for herein.

25. **THIS COURT ORDERS** that Greenhill shall be entitled to the benefit of and are hereby granted a charge (the “**Transaction Fee Charge**”) on the Property as security for the Transaction Fee, which charge shall not exceed an aggregate amount of US\$5,600,000. The Transaction Fee Charge shall have the priority set out in paragraphs 46 and 49 herein.

26. **THIS COURT ORDERS** that Greenhill shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of the Greenhill Engagement Letter, save and except for any gross negligence or wilful misconduct on its part.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that FTI. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant’s receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and their counsel, pursuant to and in accordance with the DIP

Agreement (as defined herein), or as may otherwise be agreed between the Applicant and the DIP Lender;

- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender under the DIP Agreement, which information shall be reviewed with the Monitor and delivered to the DIP Lender and their counsel in accordance with the DIP Agreement;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) hold and administer funds in connection with arrangements made among the Applicant, any counterparties and the Monitor or by Order of this Court;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation,

enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Newfoundland Environmental Protection Act*, the *Newfoundland Water Resources Act*, the *Newfoundland Occupational Health and Safety Act*, and the regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

34. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant's counsel and Greenhill for its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 46 and 49 hereof.

DIP FINANCING

36. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow a super-priority, debtor-in-possession, non-revolving credit facility (the "**DIP Facility**") under a DIP Loan Agreement dated October 9, 2023 (the "**DIP Agreement**") from Cargill Inc. (collectively, in such capacity, the "**DIP Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Agreement shall not exceed the principal amount of US\$75,000,000 and Post-Filing Credit Extensions (as defined in the DIP Agreement) shall not exceed the principal amount of US\$20,000,000, unless permitted by further Order of this Court.

37. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement attached as Exhibit "K" to the Broking Affidavit.

38. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such security documents and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

39. **THIS COURT ORDERS** that the DIP Lender and Cargill International Trading Pte Ltd. ("**CITPL**") shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Charge**") on

the Property, which DIP Charge shall not secure an obligation that exists before this Order is made, and in the case of CITPL, shall only secure Post-Filing Credit Extensions. The DIP Charge shall have the priority set out in paragraphs 46 and 49 hereof.

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

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP Lender may cease making advances to the Applicant upon four (4) business days' notice to the Applicant and the Monitor, exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Charge, including without limitation, set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

41. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act (Canada)* (the "**BIA**"), with respect to any advances made under the Definitive Documents.

42. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Agreement, the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "**Variation**"), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lender, whether under this Order (as made prior to the Variation), under the DIP Agreement or the Definitive

Documents with respect to any advances made or obligations incurred prior to the DIP Lender being given notice of the Variation, and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Agreement and the Definitive Documents.

KEY EMPLOYEE RETENTION PLAN

43. **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the Broking Affidavit and the Second Broking Affidavit, is hereby approved and the Applicant is authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

44. **THIS COURT ORDERS** that payments made by the Applicant pursuant to the KERP do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

45. **THIS COURT ORDERS** that the Applicant is authorized to pay up to US\$3,035,000 to the Monitor to hold in a segregated account (the “**KERP Funds**”) and the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the KERP Funds (the “**KERP Charge**”), which charge shall not exceed an aggregate amount of US\$3,035,000 to secure any payments to the Key Employees under the KERP. The KERP Charge shall have the priority set out in paragraphs 46 and 49 hereof. The Monitor shall not be responsible for making the payments to the Key Employees under the KERP; paying any tax withholdings or remittances payable to any tax authorities or otherwise in respect of the KERP; or reporting or making disclosure with respect to the KERP to any taxing authorities or otherwise.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

46. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge, the Transaction Fee Charge and the DIP Charge (collectively, with the KERP Charge, the “**Charges**”), as among them, as against the Property other than the KERP Funds, shall be as follows:

First – the Administration Charge (to the maximum amount of US\$1,000,000);

Second – the Directors’ Charge (to the maximum amount of US\$5,200,000);

Third – the Transaction Fee Charge (to the maximum amount of US\$5,600,000); and

Fourth – the DIP Charge.

47. **THIS COURT ORDERS** that the KERP Charge (to the maximum amount of US\$3,035,000) shall rank first solely as against the KERP Funds and the other Charges shall rank subordinate to the KERP Charge as against the KERP Funds in the priorities set out in paragraph 46.

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

49. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property, and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, except for the portion of the Transaction Fee Charge which ranks *pari passu* basis with the Senior Priority Notes and Senior Priority Advances.

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

51. **THIS COURT ORDERS** that the Administration Charge, the Directors’ Charge, the KERP Charge, the Transaction Fee Charge, the DIP Charge, the DIP Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by the pendency of these proceedings and the declarations of insolvency made herein; any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; the filing of any assignments for the general benefit of creditors made pursuant to the BIA; the provisions of any federal or provincial statutes; or any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

52. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

53. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition), a notice containing the information prescribed under the CCAA, (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

54. **THIS COURT ORDERS** that the Commercial List E-Service Guide (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a

Case Website shall be established in accordance with the Protocol with the following URL:
<http://cfcanada.fticonsulting.com/tacora>.

55. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

56. **THIS COURT ORDERS** that the Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SORS/DORS).

SEALING

57. **THIS COURT ORDERS** that Confidential Exhibit "C" to the Second Broking Affidavit is hereby sealed pending further Order of the Court and shall not form part of the public record.

GENERAL

58. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

59. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

60. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying

out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

61. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

62. **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP Lender) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

63. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the Filing Date.

64. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

 Digitally signed
by Jessica Kimmel
Date: 2023.10.30
14:29:55 -04'00'

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.**

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

AMENDED AND RESTATED INITIAL ORDER

STIKEMAN ELLIOTT LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

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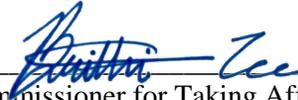
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Counsel to Tacora Resources Inc.

**THIS IS EXHIBIT "R" REFERRED TO IN THE
AFFIDAVIT OF MATTHEW LEHTINEN
SWORN BEFORE ME THIS
14TH DAY OF MARCH, 2024**

A handwritten signature in blue ink, appearing to read "Britta Lee", is written over a horizontal line.

Commissioner for Taking Affidavits

AMENDED AND RESTATED DIP FACILITY TERM SHEET

This amended and restated term sheet dated as of March 18, 2024 (this “**Term Sheet**”) sets out the terms on which Cargill, Incorporated (“**Cargill**”) is prepared to provide debtor-in-possession financing to Tacora Resources Inc. (“**Tacora**”, together with Cargill, the “**Parties**”).

Recitals

CITPL (as defined in Schedule “**A**”) is party to various existing agreements with Tacora, including the Advance Payments Facility Agreement, the Offtake Agreement and the Onshore Agreement (collectively, the “**Existing Arrangements**”) and, pursuant to certain of those Existing Arrangements, Cargill provides various forms of financing and credit, as well as margining, hedging, price protection and operational support, to Tacora;

Tacora requested that Cargill provide DIP financing during the pendency of its proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the initial order (the “**Initial Order**”) granted on October 10, 2023, and in accordance with the terms and conditions set out in the Original Term Sheet (as defined below);

The Parties entered into a financing term sheet dated as of October 9, 2023 (the “**Original Term Sheet**”) pursuant to which Cargill agreed to provide DIP financing in order to finance Tacora’s working capital requirements and other general corporate purposes and capital expenditures;

The Parties wish to amend and restate the Original Term Sheet, in its entirety and without novation, in accordance with this amended and restated DIP facility term sheet (the “**Term Sheet**”);

The Parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Tacora Resources Inc. (the “**Borrower**”).
2. **DIP LENDER:** (i) Cargill and (ii) subject to consent of the Borrower and the Monitor (including to the terms and conditions of any such participation), such other Persons (including any holder of the Company’s existing indebtedness or Equity Securities) that wish to participate in the DIP Facility on the terms set out in this Term Sheet (collectively, the “**DIP Lender**”). Unless the Borrower and the Monitor provided their consent in connection with the participation of another DIP Lender, Cargill shall be liable for all obligations of the DIP Lender hereunder.
3. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in Schedule “**A**”.
4. **DIP FACILITY ADVANCES:** A senior secured, superpriority, debtor-in-possession, interim, non-revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$127,500,000 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

- (a) an initial advance (the “**Initial Advance**”) in the principal amount of \$15,500,000; and
- (b) subsequent advances (each a “**Subsequent Advance**”) made every other week (or as otherwise agreed by the Borrower and DIP Lender) with each Subsequent Advance amount being in an amount no less than \$10,000,000 and no more than \$15,000,000 at any one time such that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined based on the funding needs of the Borrower as set forth in the DIP Budget and provided that no Subsequent Advances shall be made while the Borrower’s cash on hand is above \$15,000,000 (or such other amount as agreed by the Borrower, the Monitor and the DIP Lender).

The Initial Advance shall be deposited by the DIP Lender into the Operating Account within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied and the Borrower delivers to the DIP Lender an Advance confirmation certificate in the form of Schedule “**B**” (an “**Advance Confirmation Certificate**”).

Each Subsequent Advance shall be deposited by the DIP Lender into the Operating Account within two (2) Business Days of the date on which the Borrower delivers to the DIP Lender an Advance Confirmation Certificate in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied as of the date on which such Advance Confirmation Certificate is delivered.

The Advance Confirmation Certificate shall certify that (i) all representations and warranties of the Borrower contained in this Term Sheet remain true and correct in all material respects both before and after giving effect to the use of such proceeds, (ii) all of the covenants of the Borrower contained in this Term Sheet and all other terms and conditions contained in this Term Sheet to be complied with by the Borrower, not properly waived in writing by the DIP Lender, have been fully complied with, (iii) no Default or Event of Default then exists and is continuing or would result therefrom.

Each Advance Confirmation Certificate shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has provided to the Borrower and the Monitor an objection thereto in writing, providing reasons for the objection, by no later than 4:00 p.m. Eastern Time on the Business Day following the delivery of such Advance Confirmation Certificate. A copy of each Advance Confirmation Certificate shall be concurrently provided to DIP Lender and the Monitor.

5. **EXISTING**

ARRANGEMENTS:

In addition to the DIP Facility, unless an Event of Default then exists, Cargill shall cause CITPL to continue to make the deemed Margin Advances (as defined under the Advance Payments Facility Agreement)

under section 2.2 of the Advance Payments Facility Agreement to fund any Margin Amounts (as defined therein) required to be funded from and after the Filing Date and all such Margin Advances shall be secured by the DIP Lender Charge (the “**Post-Filing Margin Advances**”).

In addition to the foregoing, unless an Event of Default then exists, Cargill shall cause CITPL to (a) continue to provide the Borrower with the services a full time operational consultant and two (2) part-time capital project consultants, in a manner consistent with past practice, to assist with the business and operation of the Borrower (the “**Existing Services**”); and (b) provide other services (including consulting or advisory services or technical support) whether provided through third parties or by employees of Cargill that may be agreed by the Borrower and Cargill from time to time, with consent of the Monitor (the “**Additional Services**” and together with the Existing Services, collectively, the “**Services**”).

The Existing Services shall continue to be provided at no cost, consistent with past practice, and the cost of the Additional Services shall be mutually agreed by Cargill (or CITPL) and the Borrower, with the consent of the Monitor. The Borrower shall reimburse CITPL for the cost of the Services on the Maturity Date and all such amounts to be reimbursed shall be secured by and have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations (the “**Ancillary Post-Filing Credit Extensions**” and together with the Post-Filing Margin Advances, collectively, the “**Post-Filing Credit Extensions**”).

Cargill also agrees, provided that no Event of Default has occurred, that it shall cause CITPL to:

- (a) Extend the term of the Onshore Agreement to the Maturity Date, provided that following an Event of Default, CITPL may discontinue performance of the Onshore Agreement with leave of the Court in accordance with section 24 hereof;
- (b) Increase the limit in the Onshore Agreement to 500,000DMT from 400,000DMT through April 30, 2024 (as such date may be amended with the agreement of Tacora and Cargill);
- (c) Continue to perform its obligations under the Offtake Agreement, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof;
- (d) Pay for all iron ore delivered by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement pursuant to the terms of such agreements for the duration of this agreement without any set-off in respect of any damages claim that CITPL may assert against the Borrower or its affiliates provided that such damages are the result of treatment of the Onshore Agreement or the Offtake Agreement, to the extent permitted under the CCAA, pursuant to a Court Order (and for certainty, the foregoing restriction on set-off

shall not apply to post-filing amounts payable by the Borrower to CITPL pursuant to the Onshore Agreement or the Offtake Agreement); and

- (e) Continue to honour and perform in respect of any existing side letters entered into between the Borrower and Cargill in respect of hedges for the sale and purchase of iron ore under the Offtake Agreement notwithstanding the commencement of the CCAA Proceedings, provided that following an Event of Default, CITPL may discontinue such performance with leave of the Court in accordance with section 24 hereof.

Neither the granting of the DIP Lender Charge, nor any provision in this Term Sheet is intended to, nor shall it be construed in a manner that would, affect or amend any transfer of title to CITPL pursuant to and in accordance with the Existing Arrangements. For greater certainty, in no event shall Cargill be required to make or provide any Post-Filing Credit Extensions which are not secured by or do not have the benefit of the DIP Lender Charge with the same priority as the DIP Obligations.

6. **PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order, in each case in accordance with the DIP Budget:

- (a) to pay the reasonable and documented professional and advisory fees and expenses (including legal fees and expenses) of (i) the Borrower and (ii) the Monitor (collectively, the “**Borrower Restructuring Expenses**”);
- (b) to pay the reasonable and documented DIP Lender Expenses;
- (c) to pay the interest, fees and other amounts owing to the DIP Lender under this Term Sheet; and
- (d) to fund, in accordance with the DIP Budget, the Borrower’s funding requirements during the CCAA Proceedings, including, without limitation, in respect of the pursuit of a Restructuring Transaction and the working capital and other general corporate funding requirements of the Borrower during such period.

For greater certainty, the Borrower may not use the proceeds of the DIP Facility to pay any category of obligations that are not included in the DIP Budget without the prior written consent of the DIP Lender and may not pay the professional or advisory fees or expenses of any other Person other than the Borrower, the Monitor and the DIP Lender, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor).

7. **INITIAL
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to make the Facility Amount available to the Borrower and to advance the Initial Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Initial Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued the Initial Order in respect of the Borrower in substantially the form attached hereto as Schedule "**D**" and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably. The Initial Order shall, without limitation, (i) approve this Term Sheet and authorize the DIP Facility, and the borrowing of the Initial Advance to be secured by the DIP Lender Charge, (ii) authorize and approve any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000 to be secured by the DIP Lender Charge and (iii) grant the DIP Lender and CITPL (solely in respect of the Post-Filing Credit Extensions) a priority charge (the "**DIP Lender Charge**") on the Borrower's Collateral as security for the payment of (i) the Initial Advance and (ii) any Post-Filing Credit Extensions in an aggregate principal amount of up to \$20,000,000, which DIP Lender Charge shall have priority over all Liens on the Borrower's Collateral other than (A) the Permitted Priority Liens and (B) Liens of any Person that did not receive notice of the application for the Initial Order, and such Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified (other than in connection with the granting of the Amended and Restated Initial Order), without the written consent of the DIP Lender, acting reasonably;
- (b) No Default or Event of Default shall have occurred or will occur as a result of the requested Advance;
- (c) The Borrower shall have executed and delivered this Term Sheet; and
- (d) The Borrower shall have delivered an Advance Confirmation Certificate in respect of such Advance.

8. **SUBSEQUENT
ADVANCE
CONDITIONS:**

The DIP Lender's agreement to advance a Subsequent Advance to the Borrower is subject to the satisfaction of the following conditions precedent (collectively, the "**Subsequent Advance Conditions**"), each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole discretion:

- (a) The Court shall have issued an amended and restated Initial Order in substantially the form attached hereto as Schedule "**E**" (the "**Amended and Restated Initial Order**"), and the Court shall have issued a Court Order (the "**DIP Amendment Order**") approving this Term Sheet and authorizing and empowering the Borrower to borrow hereunder, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably,

including as necessary to (i) authorize the Borrower to borrow up to the Facility Amount, and (ii) provide that the DIP Lender Charge shall be increased to include the full Facility Amount together with any Post-Filing Credit Extensions, and shall have priority over all Liens in respect of the Borrower's Collateral other than the Permitted Priority Liens;

- (b) The Amended and Restated Initial Order and the DIP Amendment Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (c) There shall be no Liens ranking in priority to the DIP Lender Charge over the Borrower's Collateral other than the Permitted Priority Liens; and
- (d) All Initial Advance Conditions shall continue to be satisfied.

9. **COSTS AND EXPENSES:**

The Borrower shall reimburse the DIP Lender for all reasonable and documented out-of-pocket legal and financial advisory fees and expenses incurred before or after the Filing Date (collectively, the "**DIP Lender Expenses**") in connection with the DIP Facility, the DIP Credit Documents, and the DIP Lender's participation in the CCAA Proceedings, provided that the legal fees and expenses of the DIP Lender incurred prior to the Filing Date in connection with the preparation of the DIP Facility and that form part of the DIP Lender Expenses, shall be capped at \$125,000 plus applicable taxes. The DIP Lender Expenses shall form part of the DIP Obligations secured by the DIP Lender Charge.

All accrued DIP Lender Expenses incurred prior to the Filing Date in connection with the DIP Facility and the preparation for and initiation of the CCAA Proceedings shall be paid in full through deduction from the Initial Advance.

10. **DIP LENDER CHARGE:**

All DIP Obligations shall be secured by the DIP Lender Charge, in connection with which the DIP Lender may, in its reasonable discretion, require the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments, in order to obtain, or further evidence, a Lien on such Collateral. For greater certainty, the execution, filing or recording of any security agreements, pledge agreements, financing statements or other documents or instruments shall not be (a) an Initial Advance Condition, or (b) a Subsequent Advance Condition except and unless the DIP Lender has provided the Borrower with seven (7) Business Days' notice that the execution, filing or recording of such security agreements, pledge agreements, financing statements or other documents or instruments is required.

11. **PERMITTED LIENS: AND PRIORITY:**

All Collateral will be free and clear of all Liens, except for the Permitted Liens.

12. **REPAYMENT:**

The DIP Facility and the DIP Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default which is continuing and has not been cured; (ii) the completion of a Restructuring Transaction; (iii) the conversion of the CCAA Proceedings into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (iv) the date on which the DIP Obligations are voluntarily prepaid in full and the DIP Facility is terminated and (v) the Outside Date (the earliest of such dates being the “**Maturity Date**”). The Maturity Date may be extended from time to time at the request of the Borrower (in consultation with the Monitor) and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree in its sole discretion.

Without the consent of the DIP Lender, acting in its sole discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Obligations, other than after the permanent and indefeasible payment in cash to the DIP Lender of all DIP Obligations on or before the date such Plan is implemented.

13. **DIP BUDGET AND
VARIANCE
REPORTING:**

Attached hereto as Schedule “C” is a copy of the agreed summary DIP Budget (excluding the supporting documentation provided to the DIP Lender in connection therewith) as in effect on the date hereof (the “**Initial DIP Budget**”), which the DIP Lender acknowledges and agrees has been reviewed and approved by it, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to by the DIP Lender), in each case to be delivered to the Monitor and the DIP Lender and its legal counsel by no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. Such proposed revised DIP Budget shall have been reviewed and approved by the Monitor. If the DIP Lender determines that the proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by the DIP Lender of a proposed revised DIP Budget that such proposed revised DIP Budget is not acceptable to it, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender shall be the DIP Budget for the purpose of this Term Sheet.

On the last Business Day of every second week, the Borrower shall deliver to the Monitor and the DIP Lender and its legal counsel a variance calculation (the “**Variance Report**”) setting forth actual disbursements for the preceding two weeks ending on the preceding Friday (each a “**Testing Period**”) and on a cumulative basis as against the then-current DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Testing Period in the DIP Budget; each such Variance Report is to be promptly discussed with the DIP Lender and its legal and financial advisors. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Testing Period.

14. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the DIP Lender pursuant to the DIP Facility and the Post-Filing Credit Extensions.

15. **PREPAYMENTS:** Provided the Monitor consents, the Borrower may prepay any DIP Obligations at any time prior to the Maturity Date without premium or penalty. Any amount repaid may not be reborrowed without the prior written consent of the DIP Lender, which may be withheld in its sole discretion.

The Borrower may, at any time, negotiate and enter into another interim financing facility that provides for the prepayment of the DIP Obligations and all Post-Filing Credit Extensions in full, and the concurrent (i) termination of the DIP Facility and this Term Sheet, including all obligations of the DIP Lender or Cargill to make further Post-Filing Margin Advances or other Post-Filing Credit Extensions, and (ii) termination of the Onshore Agreement.

16. **INTEREST RATE:** Interest shall be payable on (a) the principal amount of Advances and (b) overdue interest, fees (including the Exit Fees) and DIP Lender Expenses outstanding from time to time at a rate equal to 10.0% *per annum*, payable monthly in arrears in cash on the last Business Day of each month, provided that from and after the granting of the DIP Amendment Order, the Borrower shall have the right to defer the payment of accrued interest to the DIP Lender in respect of any month and instead capitalize such interest by adding such interest to the principal amount of the DIP Obligations on the last Business Day of each applicable month.

All interest shall be computed daily on the basis of a calendar year of 365 or 366 days, as applicable, and, if not paid when due, shall compound monthly. Whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

17. **EXIT FEES:** Upon the earlier of (a) completion of a successful Restructuring Transaction, and (b) the indefeasible repayment in full of the DIP Facility and all other DIP Obligations and/or cancellation of all remaining commitments in respect thereof, the Borrower shall pay (i) an initial exit fee, in cash, in an amount equal to 3.00% of the initial committed amount under the DIP Facility of \$75,000,000, being equal to \$2,250,000 (the “**Initial Exit Fee**”) which was fully earned and payable upon the issuance of the Amended and Restated Initial Order and (ii) a subsequent exit fee, in cash, in an amount equal to 2.00% of the subsequent committed amount under the DIP Facility of \$52,500,000, being equal to \$1,050,000 (the “**Subsequent Exit Fee**” and together with the Initial Exit Fee, collectively, the “**Exit Fees**”) provided that the Subsequent Exit Fee shall only be payable if the DIP Facility as amended and restated by this Term Sheet, is approved pursuant to the DIP Amendment Order, and provided further that the Subsequent Exit Fee shall not be payable if the Borrower completes the transaction contemplated by the subscription agreement entered into by the Borrower, the ad hoc group of noteholders, Resource Capital Fund VII L.P. and Javelin Global Commodities (SG) Pte Ltd. dated January 29, 2024.
18. **CURRENCY:** Unless otherwise stated, all monetary denominations shall be in lawful currency of the United States and all payments made by the Borrower under this Term Sheet shall be in United States dollars. If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Other Currency with the Original Currency after any costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.
19. **MANDATORY REPAYMENTS:** Unless otherwise consented to in writing by the DIP Lender, the net cash proceeds of any sale, realization or disposition of, or with respect to, any of the Collateral (including obsolete, excess or worn-out Collateral) out of the ordinary course of business, or any insurance proceeds paid to the Borrower in respect of such Collateral, shall be paid to the DIP Lender and applied to reduce the DIP Obligations and permanently reduce and cancel an equivalent portion of the Facility Amount in an amount equal to the net cash proceeds of such sale, realization, disposition or insurance (for greater certainty, net of transaction fees and applicable taxes in respect thereof). Any amount repaid may not be reborrowed.
20. **REPS AND WARRANTIES:** The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Credit Documents, that:
- (a) The Borrower has been duly formed and is validly existing under the law of its jurisdiction of incorporation;

- (b) The transactions contemplated by this Term Sheet and the other DIP Credit Documents, upon the granting of the Initial Order:
 - (i) are within the powers of the Borrower;
 - (ii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iii) constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms;
 - (iv) do not require any material authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of the Borrower or any Applicable Law relating to the Borrower.
- (c) The Borrower owns its assets with good and marketable title thereto, subject only to Permitted Liens;
- (d) The business operations of the Borrower have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
- (e) The Borrower has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
- (f) The Borrower maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
- (g) The Borrower has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
- (h) Other than as stayed pursuant to the Initial Order or the Amended and Restated Initial Order (once granted), there is not now pending or, to the knowledge of any of the senior officers of the Borrower, threatened against the Borrower, nor has the Borrower received notice in respect of, any material claim, potential claim, litigation,

action, suit, arbitration or other proceeding by or before any court, tribunal, governmental entity or regulatory body;

- (i) Except for those defaults set out on Schedule 20(i) hereto which are stayed by the Initial Order or the Amended and Restated Initial Order, all Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the Borrower does not have any knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of or relating to the insolvency of the Borrower or any of its affiliates or the commencement of the CCAA Proceedings);
- (j) Except as disclosed to the DIP Lender in writing by the Borrower, there are no agreements of any kind between the Borrower and any other third party or any holder of debt or Equity Securities of the Borrower with respect to any Restructuring Transaction, which remain in force and effect as of the Filing Date;
- (k) No Default or Event of Default has occurred and is continuing;
- (l) All written information furnished by or on behalf of the Borrower to the DIP Lender or its advisors for the purposes of, or in connection with, this Term Sheet, the other DIP Credit Documents, the Existing Arrangements, or any other relevant document or any other transaction contemplated thereby, is true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances; and
- (m) The report of the Borrower to the DIP Lender on the status of its sale and investment solicitation process to date is accurate and complete, and the Borrower has disclosed all material information in respect of such process to the DIP Lender.

21. AFFIRMATIVE COVENANTS:

The Borrower agrees to do, or cause to be done, the following until the DIP Obligations are permanently and indefeasibly repaid in full:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the Borrower, and (ii) cause management, the financial advisor and/or legal counsel of the Borrower to cooperate with reasonable requests for information by the DIP Lender and its legal and financial advisors in connection with matters reasonably related to the DIP Facility, the CCAA Proceedings, or compliance of the Borrower with its obligations pursuant to this Term Sheet, in each case subject to applicable privacy laws, solicitor-client privilege, and any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting

reasonably, are necessary to protect the Borrower's restructuring process;

- (b) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower and the CCAA Proceedings, including all matters relating to its pursuit of a Restructuring Transaction, in each case subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (c) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by the DIP Lender and as set out in this Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders, subject to Permitted Variances;
- (e) Obtain the Amended and Restated Initial Order by date on which the Court releases its decision in respect of the comeback motion heard October 24, 2023, in each case substantially in the form attached hereto and with such changes as are acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (f) Obtain the DIP Amendment Order, in form and substance acceptable to the Borrower, the Monitor and the DIP Lender, each acting reasonably;
- (g) Comply with the provisions of the Initial Order, the Amended and Restated Initial Order, and all other Court Orders;
- (h) Preserve, renew and keep in full force its corporate existence;
- (i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default;
- (j) Comply with Applicable Law in all material respects, except to the extent not required to do so pursuant to any Court Order;
- (k) Provide the DIP Lender and its counsel draft copies of and the opportunity to comment on all motions, applications, proposed Court Orders and other materials or documents that the Borrower intends to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible prior to the date on which such motion, application, proposed Court Order or other materials or document is served on the service list in respect of the

CCAA Proceeding;

- (l) Take all commercially reasonable actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating not expressly consented to in writing in advance by the DIP Lender relating to the DIP Facility or the DIP Lender Charge;
- (m) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract, subject to any disclosure restrictions contained in any Court Order or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (n) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over the Borrower;
- (o) Provide the DIP Lender and its advisors from time to time, on a confidential basis, with such information regarding the progress of the Borrower's pursuit of a Restructuring Transaction as may be reasonably requested by the DIP Lender, subject to any disclosure restrictions contained in any Court Order, or that, in the opinion of the Borrower (in consultation with the Monitor), each acting reasonably, are necessary to protect the Borrower's restructuring process;
- (p) Execute and deliver such loan and security documentation as may be reasonably requested by the DIP Lender from time to time;
- (q) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the Borrower with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, acting reasonably, and, if requested by the DIP Lender, cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies. The DIP Budget shall permit funding sufficient to pay the premiums in respect of such insurance, including director and officer tail insurance at the discretion of and on terms acceptable to the Borrower;
- (r) Promptly following receipt of summary invoices, pay all DIP Lender Expenses no less frequently than every two weeks, provided that the DIP Lender shall provide reasonable estimates of such expenses for purposes of the DIP Budget;

- (s) Comply with the terms, and keep in full force and effect, each of (i) the Offtake Agreement and (ii) the Onshore Agreement, except (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order;
- (t) Promptly upon becoming aware thereof, provide details of any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against the Borrower by or before any court, tribunal, Governmental Authority or regulatory body, which would be reasonably likely to result, individually or in the aggregate, in a judgment in excess of \$100,000;
- (u) Comply with the DIP Budget subject to the Permitted Variance; and
- (v) Act diligently and in good faith in the pursuit of the CCAA Proceedings.

22. NEGATIVE COVENANTS:

The Borrower covenants and agrees not to do, or cause not to be done, the following, until the DIP Obligations are permanently and indefeasibly repaid in full, other than with the prior written consent of the DIP Lender or with the express consent required as outlined below:

- (a) Transfer, lease or otherwise dispose of all or any material part of its property, assets or undertaking outside of the ordinary course of business, except for the disposition of obsolete, redundant or ancillary assets in accordance with the Amended and Restated Initial Order or another Court Order;
- (b) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of any obligation of the Borrower arising or relating to the period prior to the Filing Date, other than in accordance with the Court Orders and the DIP Budget;
- (c) Create or permit to exist any indebtedness other than (i) the indebtedness existing as of the Filing Date, (ii) the DIP Obligations, and (iii) any obligation expressly permitted to be incurred pursuant to any Court Order and (iv) post-filing trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the Initial Order or the Amended and Restated Initial Order;
- (d) Make (i) any distribution, dividend, return of capital or other distribution in respect of Equity Securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of Equity Securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon);
- (e) Issue any Equity Securities nor create any new class of Equity Securities or amend any terms of its existing Equity Securities,

other than in connection with a Restructuring Transaction approved pursuant to a Court Order;

- (f) Consent to or take any steps in furtherance of the exercise of any conversion right under any Equity Securities issued by it;
- (g) Except as authorized by a Court Order, increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management, or pay any bonuses whatsoever, other than in accordance with the DIP Budget;
- (h) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget;
- (i) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (j) Make any payments (including payments to affiliates) or expenditures (including capital expenditures), other than in accordance with the DIP Budget, subject to the Permitted Variance and provided that the Borrower shall in no event pay any professional or advisory fees (including any legal fees or expenses) of any other Person (other than the Borrower, the DIP Lender and the Monitor) that are not provided for in the DIP Budget, except pursuant to the terms of a binding support agreement with such Person with respect to the Restructuring Transaction that is acceptable to the DIP Lender, or as may otherwise be agreed to by the DIP Lender and the Borrower (in consultation with the Monitor);
- (k) [reserved]
- (l) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) except as may be approved by Court Order or undertaken pursuant to a Court-approved Restructuring Transaction;
- (m) Make any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Borrower (other than a resignation by a director), other than pursuant to a Court Order;
- (n) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order that would materially affect the rights or protections of the DIP Lender under or in connection with the DIP Facility or the DIP Lender

Charge, except with the prior written consent of the DIP Lender, in its sole discretion;

- (o) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority or in connection with any litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against it;
- (p) Without the approval of the Court, cease to carry on its business or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of its operations or business;
- (q) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction; or
- (r) Seek or consent to the lifting of the stay of proceedings in the Initial Order or Amended and Restated Initial Order, as applicable, in favour of the Borrower.

23. **EVENTS OF DEFAULT:**

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrower to pay: (i) principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Credit Documents; or (ii) the DIP Lender Expenses within ten (10) Business Days of being invoiced therefor, and such failure, in the case of items (i) and (ii) remains unremedied for more than three (3) Business Days;
- (b) Failure of the Borrower to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet, and such failure remains unremedied for more than three (3) Business Days, *provided that*, where another provision in this Section 23 expressly provides for a shorter or no cure period in respect of a particular Event of Default, such other provision shall apply;
- (c) Any representation or warranty by the Borrower made or deemed to be made in this Term Sheet or any other DIP Credit Document is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) The termination, suspension or disclaimer of the Existing Arrangements, or the taking of any steps to terminate, suspend or disclaim any of the Existing Arrangements, except (if permitted under the CCAA) pursuant to a Court Order, and the taking of steps to seek such a Court Order shall not, in and of itself, constitute an Event of Default, without prejudice to any rights that CITPL may have pursuant to section 32 (including subsection 32(9)(c)) of the

CCAA or otherwise;

- (e) A default (other than a default resulting from (i) the insolvency of the Borrower or the commencement of the CCAA Proceedings by the Borrower including, for greater certainty, as result of failure to pay pre-filing amounts as result of the commencement of the CCAA Proceedings, and (ii) with respect to the Existing Arrangements, (if permitted under the CCAA) pursuant to a disclaimer approved by a Court Order) under any Material Contract or existing indebtedness or any material amendment of any Material Contract or existing indebtedness unless agreed to by the DIP Lender in writing;
- (f) Issuance of any Court Order (i) dismissing the CCAA Proceedings or lifting the stay of proceedings therein to permit the enforcement of any security against the Borrower or their Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receiving order against or in respect of the Borrower, in each case which order is not stayed pending appeal thereof; (ii) granting any other Lien in respect of the Borrower's Collateral that is in priority to or *pari passu* with the DIP Lender Charge other than a Permitted Priority Lien, (iii) modifying this Term Sheet or any other DIP Credit Document without the prior written consent of the DIP Lender in its sole discretion; or (iv) staying, reversing, vacating or otherwise modifying any Court Order in respect of the DIP Facility or the DIP Lender Charge without the prior written consent of the DIP Lender in its sole discretion;
- (g) Unless consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended and Restated Initial Order;
- (h) (i) a Variance Report is not delivered within two (2) Business Days of the day on which such Variance Report is required to be delivered pursuant to this Term Sheet, or (ii) there shall exist a cumulative negative variance in excess of the Permitted Variance for the period from the Filing Date to the last day of such Testing Period, measured relative to the Initial DIP Budget or such revised DIP Budget as has been approved by the DIP Lender in accordance with Section 13;
- (i) The denial or repudiation by the Borrower of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Credit Documents or the DIP Obligations; or
- (j) Except as stayed by order of the Court or any other court with jurisdiction over the matter, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$500,000 in the aggregate, against the Borrower or its Collateral that is not released, bonded, satisfied,

discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy.

24. **REMEDIES:**

Upon the occurrence of an Event of Default, and subject to the Court Orders, the DIP Lender may, in its sole discretion, elect to terminate the commitments hereunder and declare the DIP Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, with leave of the Court on four (4) Business Days' notice to the Borrower and the Monitor, and in accordance with the Court Orders:

- (a) apply to the Court for the appointment of a receiver, interim receiver or receiver and manager over the Borrower or all or certain of its Collateral, or for the appointment of a trustee in bankruptcy in respect of the Borrower;
- (b) set-off or combine any amounts then owing by the DIP Lender to the Borrower against the DIP Obligations and the Post-Filing Credit Extensions; and
- (c) exercise against the Borrower the powers and rights of a secured party pursuant to the *Personal Property Security Act* (Ontario).

25. **INDEMNITY AND RELEASE:**

The Borrower agrees to indemnify and hold harmless the DIP Lender and its affiliates and their respective directors, officers, employees, agents, counsel and advisors (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the DIP Facility or this Term Sheet or the Existing Arrangements and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence, wilful misconduct or bad faith of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the Borrower. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. **TERMINATION BY**

The Borrower shall be entitled to terminate this Term Sheet upon notice to the DIP Lender: (i) in the event that the DIP Lender has failed to fund the

BORROWER:

Facility Amount when required to do so under this Term Sheet, or (ii) at any time following the indefeasible payment in full in immediately available funds of all of the outstanding DIP Obligations. Effective immediately upon such termination, all obligations of the Borrower and the DIP Lender under this Term Sheet shall cease, except for those obligations that explicitly survive termination, provided that nothing in this Section 27 shall relieve the Borrower from its obligations under the Existing Arrangements. For greater certainty, all outstanding DIP Obligations in respect of all Advances and all obligations under the Existing Arrangements funded prior to such termination shall become immediately due and payable concurrently with such termination and the DIP Lender shall not be required to make any further extensions of credit under this Term Sheet or the Existing Arrangements.

27. **HEDGING:**

The parties agree that upon entry into this Term Sheet, the Borrower shall be authorized to enter into one or more hedging arrangements from time to time, as may be mutually agreed by the Borrower and Cargill (or any of its affiliates), and approved by the Monitor.

28. **TAXES:**

All payments by the Borrower to the DIP Lender pursuant to this Term Sheet or otherwise on account of the DIP Obligations, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet or otherwise on account of the DIP Obligations, the amount so payable to the DIP Lender shall be increased to the extent necessary to yield to the DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to the DIP Lender that the Withholding Taxes have been so withheld and remitted.

If the Borrower pays an additional amount to the DIP Lender to account for any Withholding Taxes, the DIP Lender shall reasonably cooperate with the Borrower to obtain a refund of the amounts so withheld, including filing income tax returns in applicable jurisdictions, claiming a refund of such Withholding Tax and providing evidence of entitlement to the benefits of any applicable tax treaty. The amount of any refund so received, and interest paid by the tax authority with respect to any refund, shall be paid over by the DIP Lender to the Borrower promptly. If reasonably requested by the Borrower, the DIP Lender shall apply to the relevant taxing authority to obtain a waiver from such withholding requirement, and the DIP Lender shall cooperate with the Borrower and assist the Borrower to minimize the amount of Withholding Tax required, in each case at the Borrower’s

expense.

29. **[RESERVED]**

30. **ASSIGNMENT:**

The DIP Lender may assign its rights and obligations under the DIP Facility and the DIP Credit Documents, in whole or in part, to any Person acceptable to the DIP Lender with the prior written consent of (i) prior to an Event of Default, the Borrower, such consent not to be unreasonably withheld (it being understood that refusal by the Borrower to provide such consent if CITPL has not confirmed agreements related to the Existing Arrangements set out herein will continue following such assignment, shall not be deemed to be unreasonable); and (ii) the Monitor based solely on the Monitor being satisfied, in its reasonable discretion, that (A) the proposed assignee has the financial capacity to act as the DIP Lender and (B) the proposed assignment will not have an adverse impact on the SISP. Notwithstanding the foregoing, the DIP Lender shall be entitled to assign its rights and obligations hereunder to an affiliate without the consent of any other party.

Neither this Term Sheet nor any right and obligation hereunder or in respect of the DIP Facility may be assigned by the Borrower.

31. **AMENDMENT
AND
RESTATEMENT**

The terms and provisions of the Original Term Sheet shall be and are hereby amended and restated in their entirety without novation by the terms and provisions of this Term Sheet.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Term Sheet to be executed by their duly authorized representatives as of the date first written above.

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

CARGILL, INCORPORATED, as DIP Lender

Per: _____

Name:

Title:

Per: _____

Name:

Title:

SCHEDULE “A” DEFINED TERMS

“**Additional Services**” has the meaning given thereto in Section 5.

“**Administration Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$1,000,000 to secure the fees and expenses of (i) the Borrower and its legal counsel, (ii) the Monitor and its legal counsel and (iii) the monthly fee of Greenhill & Co. Canada Ltd.

“**Advance**” means an amount of the DIP Facility advanced to the Borrower pursuant to the terms hereof from time to time, and for greater certainty includes the Initial Advance and each Subsequent Advance.

“**Advance Confirmation Certificate**” has the meaning given thereto in Section 4.

“**Advance Payments Facility Agreement**” means the Amended and Restated Advance Payments Facility Agreement dated as of May 29, 2023, among the Borrower and CITPL, as amended from time to time, including, without limitation, pursuant to the Amendment No. 1 to the Amended and Restated Advance Payments Facility Agreement dated as of June 23, 2023, among the Borrower and CITPL.

“**Amended and Restated Initial Order**” has the meaning given thereto in Section 8(a).

“**Ancillary Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Body having the force of law.

“**Borrower**” has the meaning given thereto in Section 1.

“**Borrower Restructuring Expenses**” has the meaning given thereto in Section 6.

“**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Canada, the United States of America and Singapore.

“**Cargill**” has the meaning given thereto in the preamble.

“**CCAA**” has the meaning given thereto in the recitals.

“**CCAA Proceedings**” has the meaning given thereto in the recitals.

“**CITPL**” means Cargill International Trading PTE Ltd., and its successors and assigns.

“**Claims**” has the meaning given thereto in Section 25.

“**Collateral**” means, in respect of a Person, all current or future assets, businesses, undertakings and properties of such Person, including all proceeds thereof.

“**Court**” has the meaning given thereto in the recitals.

“**Court Order**” means any order of the Court in the CCAA Proceedings.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Amendment Order**” has the meaning given thereto in Section 8(a).

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period to and including the week of May 19, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, acting reasonably (as to scope, detail and content), which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Credit Documents**” means this Term Sheet and all other loan and security documents executed by the Borrower in connection with this Term Sheet from time to time.

“**DIP Facility**” has the meaning given thereto in Section 4.

“**DIP Obligations**” means (i) all Advances made under the DIP Facility, (ii) all other principal, interest, fees (including the Exit Fees) due hereunder and (iii) DIP Lender Expenses, in each case to the extent incurred or arising after the Filing Date.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Lender**” has the meaning given thereto in Section 2.

“**DIP Lender Charge**” has the meaning given thereto in Section 7(a).

“**Directors’ Charge**” means a Court-ordered priority charge over the Borrower’s Collateral granted by the Court in an aggregate amount not to exceed \$5,300,000 in favour of the directors and officers of the Borrower and their affiliates.

“**Equity Securities**” means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and nonvoting) of, such Person’s capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

“**Event of Default**” has the meaning given thereto in Section 23.

“**Existing Arrangements**” has the meaning given thereto in the preamble.

“**Existing Services**” has the meaning given thereto in Section 5.

“**Exit Fees**” has the meaning given thereto in Section 17.

“**Facility Amount**” has the meaning given thereto in Section 4.

“**Filing Date**” means the date on which the Initial Order was granted by the Court in the CCAA Proceedings.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial Advance**” has the meaning given thereto in Section 4.

“**Initial Advance Conditions**” has the meaning given thereto in Section 7.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial Exit Fee**” has the meaning given thereto in Section 17.

“**Initial Order**” has the meaning given thereto in the recitals.

“**KERP**” means a key employee retention program providing payments to the Borrower’s key employees in an amount not exceeding \$3,035,000 during the CCAA Proceedings, in a form previously sent to the DIP Lender on October 6, 2023, and approved by the Court pursuant to the Amended and Restated Initial Order.

“**KERP Charge**” means a Court-ordered priority charge granted by the Court over a segregated account of the Monitor where an amount in respect of the KERP is paid, in an aggregate amount not to exceed \$3,035,000 to secure the Borrower’s obligations under the KERP.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts (including deemed, statutory and constructive trusts), encumbrances, security interests, and statutory preferences of every kind and nature whatsoever.

“**Material Contract**” means any contract, license or agreement: (i) to which the Borrower is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of such Borrower, and (iii) which such Borrower cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and, for certainty, includes the Offtake Agreement and the Onshore Agreement.

“**Maturity Date**” has the meaning given thereto in Section 12.

“**Monitor**” means FTI Consulting Canada Inc.

“**Offtake Agreement**” means the Restatement of the Iron Ore Sale and Purchase Agreement dated November 11, 2018, as amended by the amendment dated March 2, 2020, emails dated June 10 through June 16, 2021 between representatives of the Buyer and the Seller, Offtake January Amendment, the Offtake May Side Letter, Section 2.2(a)(i) of this Agreement, and as further amended from time to time.

“**Offtake January Amendment**” means the amendment to the Offtake Agreement dated on or about the Initial Advance Date in form and substance satisfactory to the Buyer.

“**Offtake May Side Letter**” means the Fixed Price Side Letter 5 dated on or about the Effective Date in form and substance satisfactory to the Buyer.

“**Onshore Agreement**” means the Iron Ore Stockpile Purchase Agreement dated December 17, 2019 between the Borrower and CITPL, as amended from time to time.

“**Operating Account**” means a bank account of the Borrower designated by the Borrower to receive Advances.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Outside Date**” means October 10, 2024.

“**Parties**” has the meaning given thereto in the preamble.

“**Permitted Liens**” means (i) the Permitted Priority Liens, (ii) the DIP Lender’s Charge, (iii) any charges created under the Initial Order or other Court Order subsequent in priority to the DIP Lender’s Charge, (iv) Liens existing prior to the Filing Date, and (v) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the Directors’ Charge, (iii) the KERP Charge (if applicable), (iv) the Transaction Fee Charge, (v) any Lien in respect of amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in the case of each of the items listed in this clause (v), solely to the extent such amounts are given priority by Applicable Law and only to the extent that the priority of such amounts has not been subordinated to the DIP Lender Charge granted by the Court and (vi) such other Liens existing as of the Filing Date that have not been subordinated to the DIP Lender Charge granted by the Court.

“**Permitted Variance**” means a variance of not more than 15% relative to the aggregate disbursements (excluding the DIP Lender Expenses) on a cumulative basis since the beginning of the period covered by the applicable DIP Budget.

“**Person**” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“**Plan**” means any plan of compromise or arrangement pursuant to the CCAA in respect of the Borrower.

“**Post-Filing Credit Extensions**” has the meaning given thereto in Section 5.

“**Post-Filing Margin Advances**” has the meaning given thereto in Section 5.

“**Restructuring Transaction**” means any restructuring, financing, refinancing, recapitalization, sale, liquidation, workout, Plan or other material transaction of, or in respect of, the Borrower or all or substantially all of their business, assets or obligations.

“**Services**” has the meaning given thereto in Section 5.

“**SISP**” means the sale and investment solicitation process approved by the Court pursuant to the Court Order granted October 30, 2023.

“**Subsequent Advance**” has the meaning given thereto in Section 4.

“**Subsequent Advance Conditions**” has the meaning given thereto in Section 8.

“**Subsequent Exit Fee**” has the meaning given thereto in Section 17.

“**Tacora**” has the meaning given thereto in the recitals.

“**Taxes**” has the meaning given thereto in Section 28.

“**Transaction Fee Charge**” means a Court-ordered priority charge in favour of Greenhill & Co. Canada Ltd. for the transaction fee which may become properly due and payable under their engagement letter in an aggregate amount not to exceed \$5,600,000.

“**Term Sheet**” has the meaning given thereto in the recitals.

“**Testing Period**” has the meaning given thereto in Section 13.

“**Variance Report**” has the meaning given thereto in Section 13.

“**Withholding Taxes**” has the meaning given thereto in Section 28.

SCHEDULE "B"
FORM OF ADVANCE CONFIRMATION CERTIFICATE

TO: Cargill, Incorporated, as "DIP Lender"

DATE: ●

Reference is made to the Amended and Restated DIP Facility Term Sheet (the "**Term Sheet**") between Tacora Resources Inc., as borrower (the "**Borrower**"), and the DIP Lender. Capitalized terms used herein and not otherwise defined have the meanings given to them in the Term Sheet.

The Borrower hereby gives irrevocable notice pursuant to the terms of the Term Sheet for Subsequent Advance (the "**Requested Advance**") as follows:

The date of the Requested Advance is: _____

The requested amount of the Requested Advance is: \$ _____

The DIP Lender is hereby irrevocably instructed and directed to fund the Requested Advance in accordance with the wire instructions set out in Schedule A.

The Borrower hereby certifies:

- (i) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (ii) that all representations and warranties of the Borrower contained in the Term Sheet remain true and correct in all material respects both before and after giving effect to the use of the Requested Advance;
- (iii) that no Event of Default exists and is continuing or would result from the Requested Advance, and
- (iv) that the use of proceeds of the Requested Advance will comply with the DIP Budget (subject to the Permitted Variance).

TACORA RESOURCES INC., as Borrower

Per: _____
Name:
Title:

SCHEDULE "C"
SUMMARY DIP BUDGET

See attached.

Tacora Resources Inc.

Consolidated Cash Flow Projections

(\$USD in thousands)

Forecast Week Ending	10-Mar-24	17-Mar-24	24-Mar-24	31-Mar-24	07-Apr-24	14-Apr-24	21-Apr-24	28-Apr-24	05-May-24	12-May-24	19-May-24	Total	
Forecast Week	[1]	1	2	3	4	5	6	7	8	9	10	11	Total
Total Receipts	[2]	-	4,450	20,114	(4,399)	(3,088)	-	5,900	(314)	6,530	6,965	14,740	50,898
Operating Disbursements	[3]												
Employees		(680)	(2,035)	(207)	(2,160)	(285)	(2,147)	(676)	(2,073)	(286)	(2,155)	(206)	(12,910)
Mine, Mill and Site Costs		(1,052)	(3,475)	(1,705)	(2,522)	(955)	(1,664)	(1,041)	(6,883)	(993)	(1,863)	(704)	(22,858)
Plant Repairs and Maintenance		(2,783)	(2,354)	(3,198)	(2,104)	(2,164)	(2,164)	(2,090)	(2,090)	(2,672)	(2,172)	(2,098)	(25,888)
Logistics		(1,698)	(2,412)	(1,818)	(1,284)	(5,065)	(1,265)	(1,084)	(1,084)	(5,622)	(1,611)	(1,571)	(24,515)
Capital Expenditures		(43)	(1,600)	(1,200)	(1,403)	(1,000)	(1,000)	(1,000)	(1,203)	(1,100)	(1,100)	(1,100)	(11,749)
Other		(946)	(586)	(418)	(630)	(556)	(418)	(418)	(591)	(965)	(418)	(418)	(6,362)
Total Operating Disbursements		(7,202)	(12,462)	(8,546)	(10,103)	(10,024)	(8,658)	(6,309)	(13,925)	(11,638)	(9,318)	(6,097)	(104,282)
Net Cash from Operations		(7,202)	(8,012)	11,568	(14,502)	(13,112)	(8,658)	(409)	(14,239)	(5,109)	(2,353)	8,643	(53,384)
Restructuring Legal and Professional Costs	[4]	(752)	(1,398)	(1,109)	(1,740)	(1,285)	(693)	(518)	(693)	(749)	(619)	(444)	(9,999)
KERP	[5]	-	-	-	-	-	-	-	-	-	-	-	-
NET CASH FLOWS		(7,954)	(9,409)	10,459	(16,243)	(14,397)	(9,351)	(926)	(14,932)	(5,858)	(2,972)	8,200	(63,383)
Cash													
Beginning Cash Balance		27,025	19,070	9,661	52,438	36,196	21,798	50,448	49,521	34,589	43,732	40,760	27,025
Net Receipts/ (Disbursements)		(7,954)	(9,409)	10,459	(16,243)	(14,397)	(9,351)	(926)	(14,932)	(5,858)	(2,972)	8,200	(63,383)
Net DIP Advances/ (Repayments)	[6]	-	-	32,750	-	-	38,000	-	-	15,000	-	5,000	90,750
DIP Fees & Interest Payment	[7]	-	-	(432)	-	-	-	-	-	-	-	-	(432)
Ending Cash Balance		19,070	9,661	52,438	36,196	21,798	50,448	49,521	34,589	43,732	40,760	53,960	53,960

DIP Facility Opening Balance	75,000	75,000	75,000	-	-	-	-	-	-	-	-	-	75,000
Net DIP Advances/ (Repayments)	-	-	(75,000)	-	-	-	-	-	-	-	-	-	(75,000)
DIP Facility Ending Balance	75,000	75,000	-										
Opening Post-Filing Margin Advances	20,000	20,000	20,000	-	20,000								
Net Margin Advances/ (Repayments)	-	-	(20,000)	-	-	-	-	-	-	-	-	-	(20,000)
Ending Post-Filing Margin Advances	20,000	20,000	-										
Total DIP Facility and Post-Filing Margin Advances	95,000	95,000	-										
Replacement DIP Opening Balance	-	-	-	130,000	130,000	130,000	168,000	168,000	168,000	184,715	184,715	-	-
Net DIP Advances/ (Repayments)	-	-	32,750	-	-	38,000	-	-	15,000	-	5,000	90,750	90,750
Repayment of DIP Facility	-	-	75,000	-	-	-	-	-	-	-	-	75,000	75,000
Repayment of Post-Filing Margin Advances	-	-	20,000	-	-	-	-	-	-	-	-	20,000	20,000
Payment of DIP Facility Exit Fee	-	-	2,250	-	-	-	-	-	-	-	-	2,250	2,250
PIK Interest	[7]	-	-	-	-	-	-	-	1,715	-	708	2,423	2,423
Replacement DIP Ending Balance	-	-	130,000	130,000	130,000	168,000	168,000	168,000	184,715	184,715	190,423	190,423	190,423

Tacora Resources Inc.

Consolidated Cash Flow Projections

Notes to the Consolidated Cash Flow Projections:

[1] The purpose of the Cashflow Projections is to estimate the liquidity requirements of Tacora Resources Inc. ("Tacora", or the "Company") during the forecast period. The forecast above is presented in US Dollars. Any estimates in Canadian dollars have been translated at an fx rate of 1.34.

[2] Forecast Total Receipts are based on management's current expectations regarding productions and vessel shipments of iron ore concentrate (total tonnage) and price indices net of mark to market adjustments. Receipts from operations have been forecast based on current payment terms, historical trends in collections and expected vessel shipment schedules.

[3] Operating disbursements include the following key categories:

Forecast Employee Costs are based on historic payroll amounts and future forecast payments.

Forecast Mine, Mill and Site Costs primarily include site costs based on forecast activity levels and known commitments including, utilities, fuel, and supplies and consumables.

Forecast Plant Repairs and Maintenance costs relate to Scully Mine. Plant repairs and maintenance also includes contract labour at the Scully Mine.

Forecast Logistics costs primarily include rail transportation costs as well as port-related payments.

Forecast Capital Expenditures include costs related to mine, milling, and other logistics / infrastructure improvements.

Forecast Other costs include environmental costs, security and other costs at the Scully Mine and corporate.

[4] Forecast Restructuring Legal and Professional Costs include legal and financial advisors associated with the CCAA proceedings and are based on estimates.

[5] Forecast Key Employee Retention Plan (KERP) consistent with the Initial Affidavit.

[6] Forecast DIP Advances/Repayments reflect inflows and outflows pertaining to the DIP Facility, as well as the proposed Replacement DIP Facility, and are based on funding requirements per each DIP term sheet. The cash flow forecast above assumes a minimum cash balance throughout the period.

[7] DIP Fees and Interest are calculated based on total draws. Forecast DIP Fees and Interest in weeks 1 to 3 relate to the DIP Facility. Forecast DIP Fees and Interest in weeks 4 to 11 relate to the proposed Replacement DIP Facility. Forecast DIP Fees and Interest from weeks 4 and beyond are reflected as payment in-kind (PIK) Interest.

SCHEDULE "D"
INITIAL ORDER

See attached.



Court File No. CV-23-00707394-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM

)

TUESDAY, THE 10TH

JUSTICE KIMMEL

)

DAY OF OCTOBER, 2023

)

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

INITIAL ORDER

THIS APPLICATION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCA**") was heard this day by judicial videoconference via Zoom.

ON READING the Notice of Application, the affidavit of Joe Broking sworn October 9, 2023, and the Exhibits thereto (the "**Broking Affidavit**"), the affidavit of Chetan Bhandari sworn October 9, 2023 (the "**Bhandari Affidavit**"), the consent of FTI Consulting Canada Inc. ("**FTI**") to act as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**"), the Pre-Filing Report of FTI, as the proposed Monitor, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for FTI and such other counsel and parties as listed on the Participant Information Form, with no one else appearing although duly served as appears from the affidavit of service of Natasha Rambaran, filed,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicant shall be entitled to continue to utilize the cash management system currently in place as described in the Broking Affidavit or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), and maintenance and security services;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and
- (c) payments and/or advances to Tacora Resources LLC to pay salaries and wages for U.S. based employees and rent for Tacora's head office located in Grand Rapids, Minnesota.

7. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind

which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

10. **THIS COURT ORDERS** that until and including October 20, 2023, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are

permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

12. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

NO PRE-FILING VS POST-FILING SET-OFF

13. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

15. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

16. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

17. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which obligation may become due and payable after the commencement of these proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

18. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$4,600,000, as security for the indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 36 and 38 herein.

19. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 17 of this Order.

APPOINTMENT OF MONITOR

20. **THIS COURT ORDERS** that FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

21. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and their counsel, pursuant to and in accordance with the DIP Agreement (as defined herein), or as may otherwise be agreed between the Applicant and the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender under the DIP Agreement, which information shall be reviewed with the Monitor and delivered to the DIP Lender and their counsel in accordance with the DIP Agreement;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant,

to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;

- (f) hold and administer funds in connection with arrangements made among the Applicant, any counterparties and the Monitor or by Order of this Court;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

22. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

23. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Newfoundland Environmental Protection Act*, the *Newfoundland Water Resources Act*, the *Newfoundland Occupational Health and Safety Act*, and the regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

24. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

25. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

27. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant's counsel and Greenhill & Co. Canada Ltd. ("**Greenhill**") for its Monthly Advisory Fee (as defined in the Engagement Letter dated as of January 23, 2023 between the Applicant and Greenhill) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 36 and 38 hereof.

DIP FINANCING

29. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow a super-priority, debtor-in-possession, non-revolving credit facility (the “**DIP Facility**”) under a DIP Loan Agreement dated October 9, 2023 (the “**DIP Agreement**”) from Cargill, Incorporated (in such capacity, the “**DIP Lender**”) in order to finance the Applicant’s working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Agreement shall not exceed the principal amount of US\$15,500,000 and Post-Filing Credit Extensions (as defined in the DIP Agreement) shall not exceed the principal amount of US\$20,000,000, unless permitted by further Order of this Court.

30. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement attached as Exhibit “K” to the Broking Affidavit.

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

32. **THIS COURT ORDERS** that the DIP Lender and Cargill International Trading Pte Ltd. (“**CITPL**”) shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Charge**”) on the Property, which DIP Charge shall not secure an obligation that exists before this Order is made, and in the case of CITPL, shall only secure Post-Filing Credit Extensions. The DIP Charge shall have the priority set out in paragraphs 36 and 38 hereof.

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

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP Lender may cease making advances to the Applicant and, upon four (4) business days’ notice to the Applicant and the Monitor, exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the

DIP Agreement, Definitive Documents and the DIP Charge, including without limitation, set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and

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

34. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act (Canada)* (the “**BIA**”), with respect to any advances made under the Definitive Documents.

35. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Agreement, the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a “**Variation**”), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lender, whether under this Order (as made prior to the Variation), under the DIP Agreement or the Definitive Documents with respect to any advances made or obligations incurred prior to the DIP Lender being given notice of the Variation, and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Agreement and the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

36. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge and the DIP Charge (the “**Charges**”), as among them, shall be as follows:

First – the Administration Charge (to the maximum amount of US\$1,000,000);

Second – the Directors’ Charge (to the maximum amount of US\$4,600,000); and

Third – the DIP Charge.

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

38. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person except for any Person with a property perfected Encumbrance on the Property who did not receive notice of the Application. The Applicant shall be entitled, on a subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrances over which the Charges have not obtained priority pursuant to this Order.

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

40. **THIS COURT ORDERS** that the Administration Charge, the Directors' Charge, the DIP Charge, the DIP Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

41. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

42. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition), a notice containing the information prescribed under the CCAA, (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

43. **THIS COURT ORDERS** that the Commercial List E-Service Guide (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://cfcanada.fticonsulting.com/tacora>.

44. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

45. **THIS COURT ORDERS** that the Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SORS/DORS).

GENERAL

46. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

47. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

48. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

49. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
50. **THIS COURT ORDERS** that a hearing for the balance of the relief sought by the Applicant in the Notice of Application is hereby scheduled before this Court for October 19, 2023 at 12:00 p.m. or such other date as determined by this Court.
51. **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP Lender) may apply to this Court to vary or amend this Order not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
52. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.
53. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

 Digitally signed
by Jessica Kimmel
Date: 2023.10.10
16:40:14 -04'00'

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.**

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

INITIAL ORDER

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Counsel to Tacora Resources Inc.

SCHEDULE "E"
AMENDED AND RESTATED INITIAL ORDER

See attached.



Court File No. CV-23-00707394-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM)
JUSTICE KIMMEL)
MONDAY, THE 30TH
DAY OF OCTOBER, 2023

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.**

(Applicant)

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Tacora Resources Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCA**") for an Order amending and restating the initial order issued by the Court on October 10, 2023 (the "**Filing Date**"), substantially in the form included at the Applicant's Application Record was heard on October 24, 2023 at 330 University Avenue, Toronto, Ontario with reasons released this day.

ON READING the Application Record of the Applicant dated October 9, 2023 (the "**Application Record**"), the Affidavit of Joe Broking sworn October 9, 2023, the Affidavit of Chetan Bhandari sworn October 9, 2023, the Supplementary Application Record of the Applicant dated October 15, 2023 (the "**Supplementary Application Record**"), the Affidavit of Joe Broking sworn October 15, 2023 (the "**Second Broking Affidavit**"), the Affidavit of Chetan Bhandari sworn October 15, 2023, the Affidavit of Philip Yang sworn October 15, 2023, the consent of FTI Consulting Canada Inc. ("**FTI**") to act as Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**"), the Pre-Filing Report of the Proposed Monitor dated October 10, 2023, the First Report of the Monitor dated October 20, 2023, the Motion Record of the Ad Hoc Group of Noteholders (the "**Ad Hoc Group**") dated October 16, 2023, the Affidavit of Thomas Gray sworn October 16, 2023, the Brief of Transcripts and Exhibits, including the transcripts from the Examinations of Leon Davies held October 18, 2023, Chetan Bhandari held October 18, 2023, Paul Carrelo held October 19, 2023 and Joe Broking held October 19, 2023, and on being advised

that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Cargill, Incorporated and Cargill International Trading Pte Ltd., and counsel for the Ad Hoc Group, and such other counsel and parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavits of service of Natasha Rambaran and the affidavit of service of Philip Yang, filed,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicant shall be entitled to continue to utilize the cash management system currently

in place as described in the Broking Affidavit or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses, and director fees of outside directors payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers’ insurance), and maintenance and security services;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and

- (c) payments on behalf of Tacora Resources LLC to pay salaries and wages for U.S. based employees and rent for the Applicant's head office located in Grand Rapids, Minnesota.

8. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan, and income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement and the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding US\$1,000,000 in any one transaction or US\$5,000,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of

the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including February 9, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

NO PRE-FILING VS POST-FILING SET-OFF

17. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicant in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

18. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed

property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, including with respect to employee vacation pay which may have accrued prior to the commencement of these proceedings, but which obligation may become due and payable after the commencement of these proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$5,200,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 46 and 49 herein.

23. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

ENGAGEMENT OF GREENHILL

24. **THIS COURT ORDERS** that the engagement of Greenhill & Co. Canada Ltd. (“**Greenhill**”) by the Applicant as investment banker pursuant to the engagement letter dated as of January 23, 2023 (the “**Greenhill Engagement Letter**”) and payment by the Applicant of the Monthly Advisory Fee (as defined in the Greenhill Engagement Letter) and the Transaction Fee (as defined in the Broking Affidavit) are hereby approved, subject to the priority provided for herein.

25. **THIS COURT ORDERS** that Greenhill shall be entitled to the benefit of and are hereby granted a charge (the “**Transaction Fee Charge**”) on the Property as security for the Transaction Fee, which charge shall not exceed an aggregate amount of US\$5,600,000. The Transaction Fee Charge shall have the priority set out in paragraphs 46 and 49 herein.

26. **THIS COURT ORDERS** that Greenhill shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of the Greenhill Engagement Letter, save and except for any gross negligence or wilful misconduct on its part.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that FTI. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions.

28. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant’s receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and their counsel, pursuant to and in accordance with the DIP

Agreement (as defined herein), or as may otherwise be agreed between the Applicant and the DIP Lender;

- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender under the DIP Agreement, which information shall be reviewed with the Monitor and delivered to the DIP Lender and their counsel in accordance with the DIP Agreement;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) hold and administer funds in connection with arrangements made among the Applicant, any counterparties and the Monitor or by Order of this Court;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation,

enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Newfoundland Environmental Protection Act*, the *Newfoundland Water Resources Act*, the *Newfoundland Occupational Health and Safety Act*, and the regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant reasonable retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

34. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicant's counsel and Greenhill for its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 46 and 49 hereof.

DIP FINANCING

36. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow a super-priority, debtor-in-possession, non-revolving credit facility (the "**DIP Facility**") under a DIP Loan Agreement dated October 9, 2023 (the "**DIP Agreement**") from Cargill Inc. (collectively, in such capacity, the "**DIP Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Agreement shall not exceed the principal amount of US\$75,000,000 and Post-Filing Credit Extensions (as defined in the DIP Agreement) shall not exceed the principal amount of US\$20,000,000, unless permitted by further Order of this Court.

37. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Agreement attached as Exhibit "K" to the Broking Affidavit.

38. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to execute and deliver such security documents and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

39. **THIS COURT ORDERS** that the DIP Lender and Cargill International Trading Pte Ltd. ("**CITPL**") shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Charge**") on

the Property, which DIP Charge shall not secure an obligation that exists before this Order is made, and in the case of CITPL, shall only secure Post-Filing Credit Extensions. The DIP Charge shall have the priority set out in paragraphs 46 and 49 hereof.

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

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Agreement or the Definitive Documents, the DIP Lender may cease making advances to the Applicant upon four (4) business days' notice to the Applicant and the Monitor, exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Charge, including without limitation, set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

41. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act (Canada)* (the "**BIA**"), with respect to any advances made under the Definitive Documents.

42. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Agreement, the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "**Variation**"), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lender, whether under this Order (as made prior to the Variation), under the DIP Agreement or the Definitive

Documents with respect to any advances made or obligations incurred prior to the DIP Lender being given notice of the Variation, and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Agreement and the Definitive Documents.

KEY EMPLOYEE RETENTION PLAN

43. **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the Broking Affidavit and the Second Broking Affidavit, is hereby approved and the Applicant is authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

44. **THIS COURT ORDERS** that payments made by the Applicant pursuant to the KERP do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

45. **THIS COURT ORDERS** that the Applicant is authorized to pay up to US\$3,035,000 to the Monitor to hold in a segregated account (the “**KERP Funds**”) and the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the KERP Funds (the “**KERP Charge**”), which charge shall not exceed an aggregate amount of US\$3,035,000 to secure any payments to the Key Employees under the KERP. The KERP Charge shall have the priority set out in paragraphs 46 and 49 hereof. The Monitor shall not be responsible for making the payments to the Key Employees under the KERP; paying any tax withholdings or remittances payable to any tax authorities or otherwise in respect of the KERP; or reporting or making disclosure with respect to the KERP to any taxing authorities or otherwise.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

46. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge, the Transaction Fee Charge and the DIP Charge (collectively, with the KERP Charge, the “**Charges**”), as among them, as against the Property other than the KERP Funds, shall be as follows:

First – the Administration Charge (to the maximum amount of US\$1,000,000);

Second – the Directors’ Charge (to the maximum amount of US\$5,200,000);

Third – the Transaction Fee Charge (to the maximum amount of US\$5,600,000); and

Fourth – the DIP Charge.

47. **THIS COURT ORDERS** that the KERP Charge (to the maximum amount of US\$3,035,000) shall rank first solely as against the KERP Funds and the other Charges shall rank subordinate to the KERP Charge as against the KERP Funds in the priorities set out in paragraph 46.

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

49. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property, and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, except for the portion of the Transaction Fee Charge which ranks *pari passu* basis with the Senior Priority Notes and Senior Priority Advances.

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

51. **THIS COURT ORDERS** that the Administration Charge, the Directors’ Charge, the KERP Charge, the Transaction Fee Charge, the DIP Charge, the DIP Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by the pendency of these proceedings and the declarations of insolvency made herein; any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; the filing of any assignments for the general benefit of creditors made pursuant to the BIA; the provisions of any federal or provincial statutes; or any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

52. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

53. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe and Mail (National Edition), a notice containing the information prescribed under the CCAA, (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

54. **THIS COURT ORDERS** that the Commercial List E-Service Guide (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a

Case Website shall be established in accordance with the Protocol with the following URL:
<http://cfcanada.fticonsulting.com/tacora>.

55. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

56. **THIS COURT ORDERS** that the Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SORS/DORS).

SEALING

57. **THIS COURT ORDERS** that Confidential Exhibit "C" to the Second Broking Affidavit is hereby sealed pending further Order of the Court and shall not form part of the public record.

GENERAL

58. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

59. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

60. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying

out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

61. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

62. **THIS COURT ORDERS** that any interested party (including the Applicant, the Monitor and the DIP Lender) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

63. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the Filing Date.

64. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.

 Digitally signed
by Jessica Kimmel
Date: 2023.10.30
14:29:55 -04'00'

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TACORA RESOURCES INC.**

(Applicant)

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDINGS COMMENCED AT TORONTO

AMENDED AND RESTATED INITIAL ORDER

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Counsel to Tacora Resources Inc.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TACORA RESOURCES INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding Commenced At Toronto

**AFFIDAVIT OF MATTHEW LEHTINEN
SWORN MARCH 14, 2024**

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

Court File No. CV-23-00707394-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TACORA RESOURCES INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**Motion Record of Cargill, Incorporated and
Cargill International Trading Pte Ltd. for Cargill's
Responding Cross-Motion**

(Returnable March 18, 2024)

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