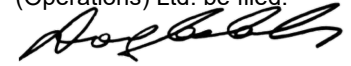


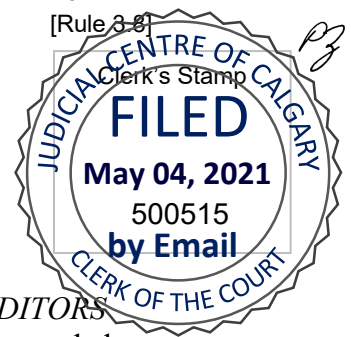
AMENDED this 4th day of  
May, 2021 Pursuant to  
Rule 3.62  
dated the 4th day of May, 2021

Fiat: Let the Amended Originating  
Application of Coalspur Mines  
(Operations) Ltd. be filed:



The Honourable Justice D. R. Mah

Form 7  
[Rule 3.81]



COURT FILE NUMBER 2101-05019  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF THE COMPROMISE OR  
ARRANGEMENT OF COALSPUR MINES (OPERATIONS) LTD.

DOCUMENT **AMENDED ORIGINATING APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
**OSLER, HOSKIN & HARCOURT LLP**  
Barristers & Solicitors  
Brookfield Place, Suite 2700  
225 6 Ave SW  
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Emily Paplawski  
Telephone: (403) 260-7000  
Facsimile: (403) 260-7024  
Email: [RVandemosselaer@osler.com](mailto:RVandemosselaer@osler.com) / [EPaplawski@osler.com](mailto:EPaplawski@osler.com)  
File Number: 1217428

## NOTICE TO THE RESPONDENT

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

You have the right to state your side of this matter before the Court.

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

Date: April 26, 2021  
Time: 2:00 p.m.  
Where: Edmonton Law Courts (by WebEx)  
Before: The Honourable Mr. Justice Mah

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

**Order Sought:**

1. The Applicant, Coalspur Mines (Operations) Ltd. (“Coalspur” or the “Applicant”), seeks an Initial Order (the “Initial Order”), under the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36 (the “CCAA”) substantially in the form attached hereto as Schedule “A”:
  - (a) declaring that the Applicant is a company to which the CCAA applies;
  - (b) authorizing the Applicant to 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”) and continue to carry on business in a manner consistent with the preservation of its business (the “Business”) and Property;
  - (c) entitling the Applicant to make payment of all obligations owing in respect of employee wages and benefits;
  - (d) entitling the Applicant to pay reasonable expenses incurred by it in operating the Business in the ordinary course, including making payment of obligations owing in respect of goods and services supplied to the Applicant prior to the date of the Initial Order, subject to the consent of the Monitor;
  - (e) staying, for an initial period of not more than ten (10) days (the “Stay Period”), all proceedings and remedies taken or that might be taken in respect of the Applicant, the Business, or the Property, except as otherwise set forth in the Initial Order or otherwise permitted by law;
  - (f) preventing any Person from accelerating performance of any rights in respect of the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Honourable Court;
  - (g) restraining any Person from interfering with the supply of goods or services to the Applicant;

- (h) staying all proceedings and remedies taken or that might be taken in respect of claims against the directors or officers of the Applicant that relate to liability of such Persons in their capacity as directors or officers of the Applicant, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (i) appointing FTI Consulting Canada Inc. (“FTI”) as Monitor of the Applicant in these proceedings;
- (j) authorizing the Applicant to pay all reasonable fees and disbursements of its counsel, the Monitor and the Monitor’s counsel;
- (k) granting an Administration Charge in the amount of \$250,000 CAD;
- (l) authorizing and empowering the Applicant to obtain and borrow under a credit facility (the “Interim Lending Facility”) from Cline Trust Company (the “Interim Lender”) in order to finance the Applicant’s working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the Interim Lending Facility:
  - (i) shall not exceed USD\$2,257,000 during the initial Stay Period unless permitted by further order of this Court;
  - (ii) shall not exceed the total of USD\$26,000,000 during any subsequent stay period as may be ordered by the Court unless permitted by further order of this Court.
- (m) Directing that such Interim Lending Facility shall be on the terms and subject to the conditions set forth in the term sheet between the Coalspur and the Interim Lender dated as of April 22, 2021 (the “Interim Lending Term Sheet”) and any definitive documents subsequently negotiated between the Applicant and the Interim Lender;
- (n) Granting to the Interim Lender a charge (the “Interim Lender's Charge”) on the Property to secure all obligations under the Interim Lending Term Sheet incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Interim Lending Term Sheet;

- (o) scheduling a comeback application for hearing at a date and time to be set by this Honourable Court, but in no event later than May 6, 2021; and
- (p) such further and other relief as the Applicant may request and this Honourable Court may grant.

**Basis for this claim:**

2. Coalspur is a company to which the CCAA applies. It is a company which has claims against it in excess of \$5,000,000, and is insolvent.
3. Coalspur is an Alberta coal development company which owns and operates the Vista Coal Mine Project located approximately 10 kilometers east of Hinton, Alberta (the “Vista Coal Mine Project” or the “Project”). Coalspur is one of the most significant employers in the Hinton and Edson regions of Alberta, providing full time employment to more than 300 individuals.
4. While Coalspur’s operations have significant value, with Phase I alone having the capacity to produce roughly 6.5 million tonnes of clean coal per year, Coalspur’s ability to conduct its business and generate revenue and liquidity has been severely impacted by:
  - (a) the shut down of the mine in February 2021 as a result of a permitting issue with the AER, thereby suspending all coal production and cutting off Coalspur’s only source of revenue; and
  - (b) the simultaneous crystallization of an approximately \$59.9 million USD hedge obligation to Trafigura Lte. Ltd. following the rapid escalation in global coal prices in late 2020.
5. The result of the foregoing was to leave Coalspur with no inventory capable of monetization, little liquidity, and no ability to generate new coal production or revenue streams because of Project shut down. What little liquidity remained available to Coalspur was required to fund basic care and maintenance operations at the Project to protect the health and safety of all employees, safeguard the environment, and preserve the Project’s assets and infrastructure.

6. As a result of Coalspur's lack of meaningful revenue since January, Coalspur currently faces a significant amount of ageing trade payables and declining liquidity to maintain care and maintenance operations at the Vista Coal Mine Project. Coalspur only has sufficient liquidity to allow it to maintain the Project on care and maintenance until the week of June 4, 2021.
7. Coalspur has now resolved the permitting issue with the AER and received approvals to restart mining operations. However, Coalspur lacks sufficient funding to restart the Project and begin producing coal because of the depletion of its coal inventory and the loss of all revenue since January 2021. Coalspur requires a significant injection of capital to fund it through mine start-up and initial production.
8. While Coalspur has not sought approval of interim financing and an Interim Financing Charge in this Originating Application, it is diligently working to finalize such financing and is hopeful to be in a position to seek approval at the hearing of this Originating Application of interim financing in an amount sufficient for the continued operation of Coalspur in the ordinary course of business (including restart and operation of the Vista Coal Mine Project, the sole and ordinary business of Coalspur) during the initial 10-day period. In the event that Coalspur is in a position to apply for such relief, it will file an Amended Originating Application and a supplemental affidavit.
9. Coalspur urgently requires the protection of the CCAA in order to: (a) stabilize its Business and facilitate a restart of the mine for the benefit of all stakeholders; and (b) provide time to it to apply for and conduct a sales and investment solicitation process, identify and assess potential transactions and review other strategic alternatives that may be available to maximize the value of Coalspur for all stakeholders.
10. Coalspur requires the Interim Lending Facility to restart operations and to carry on business as usual during the Stay Period.

**Affidavit or other evidence to be used in support of this application:**

11. The Affidavit of Michael Beyer, sworn April 19, 2021.
12. The Supplemental Affidavit of Michael Beyer, sworn April 23, 2021.

13. Pre-Filing Report of the Monitor, to be filed.

**Applicable Acts and regulations:**

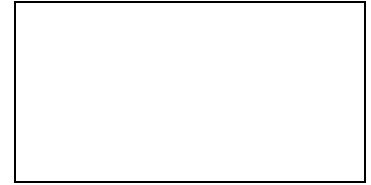
14. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36.
15. *Judicature Act*, RSA 2000, c J-2.
16. *Rules of Court*, Alta Reg 124/2010.
17. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

**Schedule "A"**

Clerk's Stamp:



COURT FILE NUMBER

COURT

JUDICIAL CENTRE

APPLICANTS:

COURT OF QUEEN'S BENCH OF ALBERTA

CALGARY

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

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF COALSPUR MINES (OPERATIONS) LTD.

DOCUMENT

CONTACT INFORMATION OF

PARTY FILING THIS

DOCUMENT:

**CCAA INITIAL ORDER**

**OSLER, HOSKIN & HARCOURT LLP**

Barristers & Solicitors

Brookfield Place, Suite 2700

225 6 Ave SW

Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Emily Paplawski

Telephone: (403) 260-7000

Facsimile: (403) 260-7024

Email: [RVandemosselaer@osler.com](mailto:RVandemosselaer@osler.com) /

[EPaplawski@osler.com](mailto:EPaplawski@osler.com)

File Number: 1217428

**DATE ON WHICH ORDER WAS**

April 26, 2021

**PRONOUNCED:**

**NAME OF JUDGE WHO MADE**

The Honourable Mr. Justice Mah

**THIS ORDER:**

**LOCATION OF HEARING:**

Edmonton, Alberta

**UPON** the application of **COALSPUR MINES (OPERATIONS) LTD.** (the “**Applicant**”); **AND UPON** having read the Originating Application, the Affidavit of Michael Beyer, sworn April 19, 2021 (the “**Beyer Affidavit**”), the Supplemental Affidavit of Mike Beyer sworn April 23, 2021, and the Pre-Filing Report of the Proposed Monitor, to be filed; **AND UPON** reading the consent of FTI Consulting Canada Inc. to act as Monitor; **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within Order; **AND UPON** hearing from counsel for the Applicant; **IT IS HEREBY ORDERED AND DECLARED THAT:**

### **SERVICE**

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

### **APPLICATION**

2. The Applicant is a company to which the *Companies’ Creditors Arrangement Act* of Canada (the “**CCAA**”) applies.

### **POSSESSION OF PROPERTY AND OPERATIONS**

3. The Applicant shall:
  - (a) 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**”);
  - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property;
  - (c) be 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; and



- (d) be entitled to continue to utilize the central cash management system currently in place as described in the Beyer Affidavit or replace it with another substantially similar central 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 the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.
4. To the extent permitted by law, the Applicant shall be entitled but not required to make the following advances or payments of the following expenses, 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;
  - (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order; and
  - (c) with the consent of the Monitor, obligations owing for goods and services supplied to the Applicant prior to the date of this Order if, in the opinion of the Applicant after consultation with the Monitor, the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or Property.

5. Except as otherwise provided to the contrary herein, 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), maintenance and security services; and
  - (b) payment for goods or services actually supplied to the Applicant following the date of this Order.
  
6. 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 that 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,but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;
  - (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 that are attributable to or in respect of the carrying on of the Business by the Applicant.
- 7. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant may 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 as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicant from time to time for the period commencing from and including the date of this Order (“**Rent**”), but shall not pay any rent in arrears.
- 8. Except as specifically permitted in this Order, 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 the date of this Order;
  - (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and
  - (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

- 9. Until and including May 6, 2021, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court (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 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**

10. 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**”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
- (a) empower the Applicant to carry on any business that 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;
  - (d) prevent the registration of a claim for lien; or
  - (e) exempt the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment
11. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

## **NO INTERFERENCE WITH RIGHTS**

12. During the Stay Period, no person shall accelerate, suspend, 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.

## **CONTINUATION OF SERVICES**

13. During the Stay Period, all persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicant, 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, suspending or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. 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 usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the 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**

14. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased 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.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

15. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 11 of this Order, 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 of this Order 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.

#### **APPOINTMENT OF MONITOR**

16. FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, 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.
17. 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, Business and dealings with the Property;
  - (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 and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;
  - (c) advise the Applicant in the preparation of its cash flow statements;
  - (d) 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 Property,

Business, and financial affairs of the Applicant or to perform its duties arising under this Order;

- (e) 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;
  - (f) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicant and any other Person; and
  - (g) perform such other duties as are required by this Order or by this Court from time to time.
18. 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, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, 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 or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. 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 federal or provincial environmental legislation.
19. The Monitor shall provide any creditor of the Applicant 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.

20. 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.
21. The Monitor, counsel to the Monitor, counsel to the Applicant, and counsel to Cline Trust Company LLC (“CTC”), shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, 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, counsel for the Applicant, and counsel for CTC, on a monthly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the respective amounts of \$100,000 (counsel to the Applicant), \$50,000 (counsel to the Monitor) and \$50,000 (Monitor) to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
22. The Monitor and its legal counsel shall pass their accounts from time to time.
23. The Monitor, counsel to the Monitor, the Applicant’s counsel, and CTC’s counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings.



## INTERIM FINANCING

24. The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from CTC in its capacity as interim lender (“**Interim Lender**”) in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility:
- (a) shall not exceed USD\$2,257,000 during the initial Stay Period unless permitted by further order of this Court;
  - (b) shall not exceed the total of USD\$26,000,000 during any subsequent stay period as may be ordered by the Court unless permitted by further order of this Court.
25. Such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicant and the Interim Lender dated as of April [22], 2021 (the “**Interim Lender Term Sheet**”), filed.
26. The Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the Interim Lender Term Sheet or as may be reasonably required by the Interim 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 Interim Lender under and pursuant to the Interim Lender Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
27. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the “**Interim Lender's Charge**”) on the Property to secure all obligations under the Interim Lender Term Sheet and the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender’s Charge shall not secure any

obligation existing before this the date this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 30 and 33 hereof.

28. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon at least 14 days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Interim Lender Term Sheet, Definitive Documents, and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the Interim Lender to the Applicant against the obligations of the Applicant to the Interim Lender under the Interim Lender Term Sheet, the Definitive Documents or the Interim Lender's 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 Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

29. The Interim 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 of Canada (the "BIA"), with respect to any advances made under the Interim Lender Term Sheet or the Definitive Documents.

## VALIDITY OF CHARGES

30. The priorities of the the Administration Charge and the Interim Lender's Charge (the “**Charges**”), as between them, shall be as follows:

First – Administration Charge (to the maximum amount of \$250,000, unless further ordered by this Court); and

Second – Interim Lender's Charge.

31. The filing, registration or perfection of the Charges shall not be required, and 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.
32. The Charges shall constitute a charge on the Property and subject always to section 34(11) of the CCAA (and subject to paragraph 33 hereof), the Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.
33. Notwithstanding paragraph 32 hereof, the Interim Lender’s Charge shall at all times rank subordinate to any lien or security interest held by Trafigura Pte. Ltd. against the Property.
34. 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, the Charges, unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Charges, or further order of this Court.
35. The Charges 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**”) thereunder shall not otherwise be limited or impaired in any way by:
- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;

- (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**”) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
  - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
  - (ii) 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 creation of the Charges; and
  - (iii) the payments made by the Applicant pursuant to this Order and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

## **SERVICE AND NOTICE**

36. The Monitor shall (i) without delay, publish in the Calgary Herald and the Globe and Mail a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000 and (C) 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.

37. The Monitor shall establish a case website in respect of the within proceedings at <http://cfcanada.fticonsulting.com/coalspur>.

## **GENERAL**

38. 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.
39. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
40. 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.
41. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, 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.
42. The Applicant and the Monitor are at liberty and are 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 proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

43. Any interested party (including the Applicant and the Monitor) 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.
44. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Daylight Time on the date of this Order.

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Justice of the Court of Queen's Bench of Alberta