



Form 7
[Rule 3.84]



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

\$50
COM
May 6, 2021
Justice Shelley

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

DOCUMENT **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 / 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: May 6, 2021
Time: 2:00 p.m.
Where: Edmonton Law Courts (by WebEx)
Before: The Honourable Madam Justice Shelley

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 Amended and Restated 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”** amending and restating the Initial Order granted by the Honourable Mr. Justice Mah in the within proceeding on April 26, 2021 (the “**Initial Order**”) including, without limitation:
 - (a) extending the Stay Period up to and including July 23, 2021, or such further and other date as this Court may consider appropriate;
 - (b) declaring that the Applicant may file a plan of compromise or arrangement;
 - (c) declaring that the Applicant may pursue an orderly restructuring of the Business and the Property, including the authority to permanently or temporarily downsize the Business or terminate the employment of various employees;
 - (d) increasing the Administration Charge to the aggregate amount of \$500,000; and
 - (e) such further and other relief as the Applicant may request and this Honourable Court may grant.
2. Capitalized terms used but not otherwise defined herein shall have the meanings given to such terms in the Initial Order.

Basis for this claim:

Background

3. On April 26, 2021, this Court granted the Initial Order, *inter alia*, declaring that the Applicant is a company to which the CCAA applies, granting a stay of proceedings up to and including May 6, 2021, and appointing FTI Consulting Canada Inc. as Monitor in these proceedings.
4. The Applicant has been acting diligently and in good faith in these CCAA proceedings since the Initial Order was granted including, in consultation with the Monitor:

- (a) making arrangements to restart the Project (as defined below) from its current care and maintenance status including, among other things, organizing the return to work of approximately 250 employees, ordering necessary supplies and equipment, and completing all necessary start up planning and logistics;
- (b) engaging with its suppliers, contractual counterparties, the Alberta Energy Regulator, employees, equipment lessors, and other stakeholders regarding these CCAA proceedings, the Applicant's business during these CCAA proceedings, payment of pre-filing amounts and/or amounts accruing during these CCAA proceedings, and various other issues;
- (c) completing an initial draw under the Interim Lender Term Sheet in the amount of \$2,257,000 USD; and
- (d) reviewing its forecasted operating costs and expenses to reduce unnecessary capital and operational expenditures and conserve capital during these CCAA proceedings.

Extension of the Stay Period

- 5. The purpose of these CCAA proceedings is to: (a) stabilize the business, (b) provide the Applicant with necessary financing to facilitate a restart of the Vista Coal Mine Project located approximately 10 kilometers east of Hinton, Alberta (the "**Project**"); and (c) provide time to the Applicant 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.
- 6. The Applicant requires an extension of the Stay Period up to and including July 23, 2021 to obtain the breathing room provided by the CCAA in order to continue advancing the foregoing purposes.
- 7. It is just, convenient, necessary, and in the best interest of the Applicant and its stakeholders that the Applicant be afforded the protection provided by the CCAA and an extension of the Stay Period as it continues to advance its restructuring efforts.
- 8. The Applicant has enough liquidity to fund its obligations and the costs of these CCAA proceedings through the end of the extended Stay Period.

9. The Monitor supports the extension of the Stay Period as sought by the Applicant.

Increase of the Administration Charge

10. The Monitor, the Monitor's counsel, the Applicant's counsel, and CTC's counsel will be essential to the Applicant's restructuring efforts.
11. The Monitor has reviewed the underlying assumptions upon which the proposed increase to the Administration Charge is based and is of the view that the proposed quantum of the proposed increase to the Administration Charge is reasonable in relation to the anticipated complexity of the CCAA proceedings and the services to be provided by the beneficiaries of the Administration Charge.
12. Circumstances exist which make the relief sought in the Amended and Restated Initial Order appropriate.
13. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

14. The Affidavit of Michael Beyer, sworn April 19, 2021.
15. The Supplemental Affidavit of Michael Beyer, sworn April 23, 2021.
16. The Second Affidavit of Michael Beyer, sworn April 30, 2021.
17. Pre-Filing Report of the Monitor, filed April 27, 2021.
18. First Report of the Monitor, to be filed.

Applicable Acts and regulations:

19. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36.
20. *Judicature Act*, RSA 2000, c J-2.
21. *Rules of Court*, Alta Reg 124/2010.

22. 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 2101-05019
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANTS: 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 AND RESTATED INITIAL ORDER**
CONTACT INFORMATION **OSLER, HOSKIN & HARCOURT LLP**
OF PARTY FILING THIS Barristers & Solicitors
DOCUMENT: 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 / EPaplawski@osler.com
File Number: 1217428

DATE ON WHICH ORDER May 6, 2021
WAS PRONOUNCED:
NAME OF JUDGE WHO The Honourable Madam Justice Shelley
MADE THIS ORDER:
LOCATION OF HEARING: Edmonton, Alberta

UPON the application of **COALSPUR MINES (OPERATIONS) LTD.** (the "Applicant"); **AND UPON** having read the Affidavit of Michael Beyer, sworn April 19, 2021, (the "**Beyer Affidavit**"), the Supplemental Affidavit of Michael Beyer, sworn April 23, 2021, and the Second Affidavit of Michael Beyer, sworn April 30, 2021; **AND UPON** having read the Pre-filing Report of the Proposed Monitor, filed April 27, 2021 and the First Report of the 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, counsel for the Monitor, and any other counsel present; **AND UPON** reviewing the Affidavit of Service of Elena Pratt, sworn May ____, 2021; **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.

PLAN OF ARRANGEMENT

3. 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 (the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

4. 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.

5. 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.

6. 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.

7. 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.
8. 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.
9. 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, save and except for permitted payments of principle and interest to Trafigura Lte. Ltd. as reflected in the Cash Flow Statements prepared by the Monitor from time to time;
 - (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.

RESTRUCTURING

10. The Applicant shall, subject to such requirements as are imposed by the CCAA and such

covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph 30), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$2,000,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicant (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
- (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with section 32 of the CCAA; and
- (d) 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**”).

11. 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. 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 or resiliates 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 or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:
 - (a) during the notice period prior to the effective time of the disclaimer or resiliation, 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
 - (b) at the effective time of the disclaimer or resiliation, 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 and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, 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

13. Until and including July 23, 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

14. 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
15. 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

16. 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

17. 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

- 18. 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, other than the Interim Lender, 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

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

20. 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 cooperate 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. 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) assist the Applicant, to the extent required by the Applicant, in its dissemination to the Interim Lender and its counsel on a monthly basis of financial and other information as agreed to between the Applicant and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;
 - (d) advise the Applicant in the preparation of its cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but

not less than monthly, or as otherwise agreed to by the Interim Lender;

- (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 Property, Business, and financial affairs of the Applicant or to perform its duties arising under this Order;
 - (h) 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;
 - (i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicant and any other Person; and
 - (j) perform such other duties as are required by this Order or by this Court from time to time.
22. 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.

23. The Monitor shall provide any creditor of the Applicant and the Interim 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.
24. 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.
25. 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.
26. The Monitor and its legal counsel shall pass their accounts from time to time.
27. 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 \$500,000, 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. The Administration Charge shall have the priority set out in paragraphs 34 and 36 hereof.

INTERIM FINANCING

28. 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 shall not exceed the total of USD\$26,000,000 unless permitted by further order of this Court.
29. 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.
30. 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.
31. 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 34 and 36 hereof.

32. 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.
33. 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 AND PRIORITY OF CHARGES

34. The priorities of the Administration Charge and the Interim Lender's Charge (the “**Charges**”), as among them, shall be as follows:
 - (a) First – Administration Charge (to the maximum amount of \$500,000, unless further ordered by this Court); and
 - (b) Second - Interim Lender's Charge.
35. 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.
36. The Charges shall constitute a charge on the Property and subject always to section 34(11) of the CCAA (and subject to paragraph 37 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.
37. Notwithstanding paragraph 36 hereof, the Interim Lender’s Charge shall at all times rank subordinate to any lien or security interest held by Trafigura Pte Ltd., Komatsu International (Canada) Inc., dba Komatsu Financial or Caterpillar Financial Services Limited against any of the Property.
38. 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.
39. 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 including the Interim Lender Term Sheet or the Definitive Documents 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, the Applicant entering into the Interim Lender Term Sheet, or the execution, delivery or performance of the Definitive Documents; and
 - (iii) the payments made by the Applicant pursuant to this Order, including the Interim Lender Term Sheet or the Definitive Documents, 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.

ALLOCATION

40. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge and the Interim Lender’s Charge

amongst the various assets comprising the Property.

SERVICE AND NOTICE

41. 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.
42. The Monitor shall establish a case website in respect of the within proceedings at <http://cfcanada.fticonsulting.com/coalspur>.

GENERAL

43. 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.
44. 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.
45. 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.
46. 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.

47. 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.
48. 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.
49. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Daylight Time on the date of this Order.

Justice of the Court of Queen's Bench of Alberta