

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) THURSDAY, THE 14TH
)
JUSTICE MORAWETZ) DAY OF JUNE, 2012

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.**

(the "Applicants")

**ORDER
(Claims Procedure)**

THIS MOTION, made by Timminco Limited and Bécancour Silicon Inc. (collectively, the "**Timminco Entities**") for an order approving a procedure for the solicitation, determination and resolution of claims against the Timminco Entities and the Directors and Officers of the Timminco Entities, in accordance with the terms of the Claims Procedure (as these terms are defined below), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Peter A.M. Kalins sworn June 7, 2012 and the Eleventh Report of the Monitor, and on hearing the submissions of counsel to the Timminco Entities, FTI Consulting Canada Inc. in its capacity as the monitor of the

Timminco Entities (the “**Monitor**”), Investissement Quebec (“**IQ**”), QSI Partners Ltd., the Directors and Officers, [NAME OTHER PARTIES APPEARING], no one appearing for any other person on the Service List, although properly served as appears from the affidavit of service, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record in respect of this Motion is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that, for purposes of this Order establishing a claims procedure for the Timminco Entities and their Directors and Officers (the “**Claims Procedure Order**”), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:
 - (a) “**9:30 Appointment**” means a chambers appointment with a Justice of the Court which may be scheduled for 9:30 a.m. on any day on which the Court is sitting;
 - (b) “**Assessments**” means Claims of Her Majesty the Queen in Right of Canada or of any Province or Territory or Municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of reassessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority;
 - (c) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
 - (d) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

- (e) “**CCAA Proceedings**” means the proceedings commenced by the Timminco Entities in the Court under Court File No. CV-12-9539-00CL;
- (f) “**Claim**” means:
- (i) any right or claim of any Person against one or more of the Timminco Entities, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of one or more of the Timminco Entities in existence ~~on~~prior to the Filing Date, and any accrued interest thereon and costs payable in respect thereof to the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts which existed prior to the Filing Date, and includes any ~~other~~ claims that would have been claims provable in bankruptcy had the applicable Timminco Entity become bankrupt on the Filing Date (each, a “**PrefilingPre-filing Claim**”, and collectively, the “**PrefilingPre-filing Claims**”);
 - (ii) any existing or future right or claim of any Person against one or more of the Timminco Entities in connection with any indebtedness, liability or obligation of any kind whatsoever owed by one or more of the Timminco Entities to such Person arising ~~out of the restructuring of the Timminco Entities,~~ including on or after the Filing Date as a result of any disclaimer, rescission, termination or breach on or after the Filing Date of any contract, lease, permit, authorization or other agreement whether written or oral and whether such ~~restructuring,~~ disclaimer, rescission, termination or breach took place or takes place before or after the date of this Claims Procedure Order ~~and~~ including any accrued interest thereon and costs payable in respect thereof to the date of such disclaimer, rescission, termination or breach, to the extent provided for in the contract, lease, permit, authorization or other agreement each, a “**Restructuring Claim**”, and collectively, the “**Restructuring Claims**”); and

- (iii) any existing or future right or claim of any Person against one or more of the Directors and/or Officers of a Timminco Entity which arose or arises as a result of such Director's or Officer's position, supervision, management or involvement as a Director or Officer of a Timminco Entity, whether such right, or the circumstances giving rise to it arose before or after the Initial Order up to and including the date of this Claims Procedure Order and whether enforceable in any civil, administrative or criminal proceeding (each a "D&O Claim", and collectively the "D&O Claims"), including any right:
- A. relating to any of the categories of obligations described in paragraph 9 of the Initial Order, whether accrued or falling due before or after the Initial Order, in respect of which a Director or Officer may be liable in his or her capacity as such;
 - B. in respect of which a Director or Officer may be liable in his or her capacity as such concerning employee entitlements to wages or other debts for services rendered to the Timminco Entities or any one of them or for vacation pay, pension contributions, benefits or other amounts related to employment or pension plan rights or benefits or for taxes owing by the Timminco Entities or amounts which were required by law to be withheld by the Timminco Entities;
 - C. in respect of which a Director or Officer may be liable in his or her capacity as such as a result of any act, omission, or breach of a duty; or
 - D. that is or is related to a penalty, fine or claim for damages or costs;

provided however that in any case "Claim" shall not include an Excluded Claim;

- (g) "Claimant" means a Person asserting a Claim other than a D&O Claim;
- (h) "Claims Bar Date" means 5:00 p.m. (Toronto Time) on July ~~12, 2012, or any later date ordered by the Court~~ 23, 2012;
- (i) "Claims Officer" means any individual designated by the Timminco Entities or the Court pursuant to paragraph ~~3134~~ 3134 of this Claims Procedure Order;

- (j) “**Claims Procedure**” means the procedures outlined in this Order, including the Schedules;
- (k) “**Claims Procedure Order**” means this Order;
- (l) “**Court**” means the Ontario Superior Court of Justice (Commercial List) in the City of Toronto, in the Province of Ontario;
- (m) “**D&O Claim**” has the meaning ascribed to that term in paragraph 2(f)(iii) of this Claims Procedure Order;
- (n) “**D&O Claimant**” means a Person asserting a D&O Claim;
- (o) “**D&O Counsel**” means Fraser Milner Casgrain LLP in its capacity as independent counsel to the Directors and Officers;
- (p) “**D&O Dispute Package**” means with respect to any D&O Claim, a copy of all information submitted via the FTI Claims Site or otherwise provided to, or delivered by, the Monitor in accordance with this Order with respect to the applicable D&O Claim;
- (q) “**Directors**” means the directors and former directors of each of the Timminco Entities and “**Director**” means any one of them;
- (r) “**Dispute Package**” means with respect to any Claim means with respect to any Claim, a copy of all information submitted via the FTI Claims Site or otherwise provided to, or delivered by, the Monitor in accordance with this Order with respect to the applicable Claim;
- (s) “**Excluded Claim**” means (i) Claims secured by any of the “Charges”, as defined in the Initial Order, provided that Excluded Claims shall not include D&O Claims, (ii) Claims secured by the KERP Charge, as defined in the Order of Justice Morawetz dated January 16, 2012, (iii) claims secured by the DIP Lender’s Charge, as defined in the Order of Justice Morawetz dated February 7, 2012, (iv) any ~~Claim determined to be unaffected by this Order pursuant to paragraph 23 hereof as arising from a cause of action for which the applicable Timminco Entity is fully insured,~~ (v) any claim against a Director that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA, ~~and (vi) any D&O Claim determined to be unaffected by this Order pursuant to paragraph 30 hereof;~~ and (v) the secured claims of IQ;
- (t) “**Filing Date**” means January 3, 2012 as of 12:01 am EST;
- (u) “**FTI Claims Site**” means <https://cmsi.ftitools.com/timminco>;

- (v) “**Information Submission Form**” means a form substantially in accordance with the form attached hereto as Schedule “3”;
- (w) “**Initial Order**” means the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012, as extended and amended from time to time;
- (x) “**Known Creditor**” means a Person who the Timminco Entities ~~have received actual~~ notice ~~or knowledge~~ may have a Claim against either of the Timminco Entities ~~and/or~~ that the books and records of the Timminco Entities show as owed an amount as at the Filing Date and/or an amount arising subsequent to the Filing Date that constitutes damages as a result of the ~~disclaimer, resiliation, termination or repudiation of an executory~~ breach on or after the Filing Date of any contract, lease, permit, authorization or other agreement whether written or oral;
- (y) “**Monitor**” means FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of the Timminco Entities;
- (z) “**Monitor’s Website**” means
~~http://cfcanda.fticonsulting.com/timminco~~http://cfcanda.fticonsulting.com/timminco;
- (aa) “**Notice of Claims Procedure and Claims Bar Date**” means the notice for publication, substantially in the form attached as Schedule “1”;
- (bb) “**Notice of Restructuring Claims Bar Date**” means the notice for publication, substantially in the form attached as Schedule “2”;
- (cc) “**Officers**” means the officers and former officers of each of the Timminco Entities and “**Officer**” means any one of them;
- (dd) “**Orders**” means any and all orders issued by the Court, including the Initial Order;
- (ee) “**Person**” means any individual, partnership, firm, joint venture, trust, entity, corporation, unincorporated organization, trade union, pension plan administrator, pension plan regulator, governmental authority or agency, employee or other association, or similar entity, howsoever designated or constituted;
- (ff) “**Pre-filing Pre-filing Claim**” has the meaning ascribed to that term in paragraph 2(f)(i);

- (gg) “**Proven Claim**” means the amount of a Claim and its classification as a secured Claim or an unsecured Claim, as finally determined in accordance with this Claims Procedure;
- (hh) “**Restructuring Claim**” has the meaning ascribed to that term in paragraph 2(f)(ii) of this Claims Procedure Order; and
- (ii) “**Restructuring Claims Bar Date**” means 5:00 p.m. on a date to be determined by the Timminco Entities, in consultation with the Monitor;
- (jj) “**Supporting Documentation Submission Form**” means a form substantially in accordance with the form attached hereto as Schedule “4”.

INTERPRETATION

- 3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any references to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day, unless otherwise indicated herein.
- 4. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.
- 5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

GENERAL PROVISIONS

- 6. **THIS COURT ORDERS** that the Timminco Entities, in consultation with the Monitor, are hereby authorized to (a) use reasonable discretion as to the adequacy of compliance with respect to the manner in which the fields of the FTI Claims Site or any forms delivered hereunder are completed and executed, and may, where they are satisfied that a Claim has been adequately proven,

waive strict compliance with the requirements of this Claims Procedure Order as to the completion and execution of such data fields and forms, and (b) request such further documentation from a Claimant or D&O Claimant that the Timminco Entities and the Monitor may reasonably require in order to enable them to determine the validity of a Claim. Notwithstanding anything contained herein, neither the Timminco Entities nor the Monitor shall have any discretion to accept any Claim submitted subsequent to the Claims Bar Date or the Restructuring Claims Bar Date.

7. **THIS COURT ORDERS** that any Claims denominated in a foreign currency shall be converted to Canadian dollars for the purposes of this Claims Procedure on the basis of the average Bank of Canada Canadian dollar noon exchange rate at the close of business on the Filing Date.
8. **THIS COURT ORDERS** that interest and penalties that would otherwise accrue after the Filing Date shall not be included in any unsecured Claim. Amounts claimed in Assessments whether issued before or after the Filing Date shall be subject to this Claims Procedure Order and there shall be no presumption of validity or deeming of the amount due in respect of the Claim set out in any Assessment.

MONITOR'S ROLE

9. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Orders, shall assist the Timminco Entities in connection with the administration of the Claims Procedure provided for herein, including assisting in the determination of Claims and the referral of Claims to a Claims Officer, as requested by the Timminco Entities from time to time, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Procedure Order.

10. The Monitor, in carrying out the terms of the Claims Procedure Order, shall have all of the protections given it by the CCAA and the Initial Order or as an officer of this Court, including the stay of proceedings in its favour, shall incur no liability or obligation as a result of the carrying out of its obligations under this Claims Procedure Order, shall be entitled to rely on the books and records of the Timminco Entities, and any information provided by the Timminco Entities or a Claimant, and shall not be liable for any claims or damages resulting from any errors or omissions in such books, records, or information.

CLAIMS PROCEDURE

Notice of Claims Bar Date - ~~Prefiling~~Pre-filing Claims and D&O Claims

11. ~~10.~~ **THIS COURT ORDERS** that:

- (a) The Monitor shall cause the Notice of Claims Procedure and Claims Bar Date to be placed in each of the Globe and Mail (national edition), the National Post (national edition) and *La Presse* as soon as practicable after the date of this order; and
- (b) The Monitor shall cause the Notice of Claims Procedure and Claims Bar Date to be posted on the Monitor's Website as soon as practicable after the date of this Order and cause it to remain posted thereon until its discharge as Monitor of the Timminco Entities.

Notice of Restructuring Claims Bar Date - Restructuring Claims

12. ~~11.~~ **THIS COURT ORDERS** that:

- (a) The Monitor shall cause the Notice of Restructuring Claims Bar Date to be placed in each of the Globe and Mail (national edition), the National Post (national edition) and *La Presse* at least 28 days before the Restructuring Claims Bar Date; and
- (b) The Monitor shall cause the Notice of Restructuring Claims Bar Date to be posted on the Monitor's Website at least 28 days before the Restructuring Claims Bar Date and cause it to remain posted thereon until its discharge as Monitor of the Timminco Entities.

13. ~~12.~~ **THIS COURT ORDERS** that each of the Timminco Entities shall provide a list of Known Creditors to the Monitor by no later than 5:00 pm on the first Business Day following the date of this Order.
14. **THIS COURT ORDERS that** the Monitor shall as soon as practicable after the date of this Order and receipt of the list of Known Creditors from the Timminco Entities send a Notice of Claims Procedure and Claims Bar Date and a copy of this Claims Procedure Order to each Known Creditor by regular prepaid mail or electronic mail to the address of such Known Creditor as set out in the books and records of the Timminco Entities and to any Claimant or D&O Claimant who requests these documents.
15. **THIS COURT ORDERS that** the Timminco Entities shall not disclaim, resiliate, terminate or breach any contract, lease, permit, authorization or other agreement, whether written or oral, after the Notice of Restructuring Claims Bar Date has been published in the manner set out in paragraph 12 of this Order.

Deadline for Submitting a Claim or a D&O Claim

16. ~~13.~~ **THIS COURT ORDERS** that any Person that wishes to assert a ~~Profiling~~Pre-filing Claim or a D&O Claim must submit proof of such Claim, together with all relevant supporting documentation in respect of such Claim, via the FTI Claims Site or as otherwise permitted by this Order, on or before the Claims Bar Date.
17. ~~14.~~ **THIS COURT ORDERS** that any Person that wishes to assert a Restructuring Claim must file proof of such Claim, together with all relevant supporting documentation in respect of such Claim, via the FTI Claims Site or as otherwise permitted by this Order, on or before the Restructuring Claims Bar Date.

18. ~~15.~~ **THIS COURT ORDERS** that any Person who does not file proof of a Claim in accordance with this Order with the Monitor by the Claims Bar Date or such other date as may be ordered by the Court, or the Restructuring Claims Bar Date or such other date as may be ordered by the Court, as applicable, shall be forever barred from asserting or enforcing such Claim against the Timminco Entities and the Timminco Entities shall not have any liability whatsoever in respect of such Claim and such Claim shall be extinguished without any further act or notification by the Timminco Entities.

19. ~~16.~~ **THIS COURT ORDERS** that any Person who does not file a proof of a D&O Claim in accordance with this Order by the Claims Bar Date or such other later date as may be ordered by the Court shall be forever barred from asserting or enforcing such D&O Claim against the Directors and Officers and the Directors and Officers shall not have any liability whatsoever in respect of such D&O Claim and such D&O Claim shall be extinguished without any further act or notification.

ADJUDICATION OF CLAIMS

Adjudication of ~~Prefiling~~Pre-filing Claims and Restructuring Claims

20. ~~17.~~ **THIS COURT ORDERS** that the Timminco Entities, with the assistance of the Monitor, shall review the information filed by each Claimant with respect to a ~~Prefiling~~Pre-filing Claim or a Restructuring Claim that is received by the Claims Bar Date or the Restructuring Claims Bar Date, as applicable, and may accept, revise or disallow such ~~Prefiling~~Pre-filing Claim or Restructuring Claim. At any time, the Timminco Entities or the Monitor may request additional information from the Claimant with respect to any ~~Prefiling~~Pre-filing Claim or Restructuring Claim.

21. ~~18.~~ **THIS COURT ORDERS** that the Timminco Entities, with the assistance of the Monitor, may attempt to consensually resolve the classification and amount of any ~~Prefiling~~Pre-filing Claim or Restructuring Claim with the Claimant prior to accepting, revising or disallowing such ~~Prefiling~~Pre-filing Claim or Restructuring Claim.
22. ~~19.~~ **THIS COURT ORDERS** that if the Timminco Entities, with the assistance of the Monitor, determine to revise or disallow a ~~Prefiling~~Pre-filing Claim or Restructuring Claim, the Monitor shall notify the Claimant of the revision or disallowance via email through the FTI Claims Site or as otherwise provided in this Order.
23. ~~20.~~ **THIS COURT ORDERS** that if a Claimant disputes the classification or amount of its ~~Prefiling~~Pre-filing Claim or Restructuring Claim as set forth by the Monitor via the FTI Claims Site or as otherwise provided by this Order, then such Claimant may dispute such revision or disallowance via the FTI Claims Site or as otherwise provided in this Order, so that it is received by no later than 5:00 p.m. (Toronto time) on the ~~day~~date which is fourteen days after the date of the notification of such revision or disallowance ~~by the Monitor~~ or such later date as the ~~Timminco Entities, in consultation with the Monitor, and the Claimant may agree in writing or that the~~ Court may order.
24. ~~21.~~ **THIS COURT ORDERS** that any Claimant who fails to dispute a revision or disallowance by the deadline and in the manner set forth in paragraph ~~20~~23 shall be deemed to accept the classification and amount of its ~~Prefiling~~Pre-filing Claim or Restructuring Claim as set out in the revision or disallowance and the ~~Prefiling~~Pre-filing Claim or Restructuring Claim as set out in the revision or disallowance shall constitute a Proven Claim.

25. ~~22.~~ **THIS COURT ORDERS** that if a Claimant disputes a revision or disallowance of its ~~Prefiling~~Pre-filing Claim or Restructuring Claim, the Timminco Entities, in consultation with the Monitor, may:

- (a) attempt to consensually resolve the classification and the amount of the ~~Prefiling~~Pre-filing Claim or the Restructuring Claim with the Claimant;
- (b) deliver a Dispute Package to the Claims Officer; and/or
- (c) schedule a 9:30 Appointment with the Court for the purpose of scheduling a motion to resolve the ~~Prefiling~~Pre-filing Claim or Restructuring Claim and at such motion the Claimant shall be deemed to be the applicant and the Timminco Entities shall be deemed to be the respondent. The Monitor may participate in such proceedings as it deems appropriate, which may include providing information regarding the disallowance or revision of the Pre-filing Claim or the Restructuring Claim to the parties and the Court.

26. THIS COURT ORDERS THAT, notwithstanding anything contained herein, in respect of any Pre-filing Claim or Restructuring Claim filed by or on behalf of one of the Timminco Entities as against the other, or by any other affiliate or party related to either of the Timminco Entities, including, without limitation, Quebec Silicon Limited Partnership, Quebec Silicon General Partner Inc., AMG Advanced Metallurgical Group N.V. and all of its subsidiaries, any adjudication to be conducted in accordance with paragraphs 20-23 and 25 of this Order shall be undertaken by the Monitor and not the Timminco Entities.

27. ~~23.~~ **THIS COURT ORDERS THAT**, notwithstanding any other provision hereof, ~~the Timminco Entities may determine that any Prefiling~~with respect to any Pre-filing or Restructuring Claim arising from a cause of action for which the applicable Timminco Entity is fully insured ~~shall not be resolved in accordance with this Claims Procedure and be unaffected by this Order, and all such Prefiling or Restructuring Claims shall be treated as Excluded Claims,~~the Timminco Entities may agree with the applicable insurer that such Pre-filing or Restructuring Claim shall be adjudicated by way of an alternative process and

not adjudicated in accordance with the procedure set out in this Order. In such case, the Timminco Entities shall notify the Claimant of the decision to exclude the adjudication of the Claim from the procedure set out in this Order.

Adjudication of D&O Claims

28. ~~24.~~ **THIS COURT ORDERS** that the Timminco Entities, in consultation with the Monitor and the D&O Counsel, shall review the information filed by each D&O Claimant with respect to each D&O Claim that is received by the Claims Bar Date and, with the consent of the applicable Directors or Officers, may accept, revise or disallow the D&O Claim. At any time, the Timminco Entities, the Monitor or the D&O Counsel may request additional information from the D&O Claimant with respect to any D&O Claim.

29. ~~25.~~ **THIS COURT ORDERS** that the Timminco Entities, with the consent of the applicable Directors or Officers and in consultation with the Monitor, may attempt to consensually resolve the classification and amount of any D&O Claim with the D&O Claimant prior to the Timminco Entities accepting, revising or disallowing such D&O Claim.

30. ~~26.~~ **THIS COURT ORDERS** that if the Timminco Entities, with the consent of the applicable Directors or Officers and in consultation with the Monitor, determine to revise or disallow a D&O Claim, the Monitor shall notify the D&O Claimant of the revision or disallowance via email through the FTI Claims Site or as otherwise provided in this Order.

31. ~~27.~~ **THIS COURT ORDERS** that if a D&O Claimant disputes the classification or amount of its D&O Claim as set forth by the Monitor via the FTI Claims Site

or as otherwise provided by this Order, then such Claimant may dispute such revision or disallowance via the FTI Claims Site or as otherwise provided in this Order, so that it is received by no later than 5:00 p.m. (Toronto time) on the day which is fourteen days after the date of delivery notification of such revision or disallowance ~~by the Monitor or such later date as the Timminco Entities, in consultation with the Monitor and the applicable Directors or Officers, and the D&O Claimant may agree in writing or~~ the Court may order.

32. ~~28.~~ **THIS COURT ORDERS** that any D&O Claimant who fails to dispute a revision or disallowance by the deadline and in the manner set forth in paragraph ~~27~~31 shall be deemed to accept the classification and amount of its D&O Claim as set out in the revision or disallowance and the D&O Claim as set out in the revision or disallowance shall constitute a Proven Claim.

33. ~~29.~~ **THIS COURT ORDERS** that if a D&O Claimant disputes a revision or disallowance of its D&O Claim, the Timminco Entities, in consultation with the Monitor and with the consent of the applicable Directors or Officers, may:

- (a) attempt to consensually resolve the classification and the amount of the Claim with the D&O Claimant;
- (b) deliver a D&O Dispute Package to the Claims Officer; and/or
- (c) schedule a 9:30 Appointment with the Court for the purpose of scheduling a motion to resolve the D&O Claim and at such motion the D&O Claimant shall be deemed to be the applicant and the applicable Directors or Officers shall be deemed to be the respondent. The Monitor may participate in such proceedings as it deems appropriate, which may include providing information regarding the disallowance or revision of the D&O Claim to the parties and the Court.

34. ~~30.~~ **THIS COURT ORDERS THAT**, notwithstanding any other provision hereof, the Timminco Entities may, agree with ~~the consent~~all of ~~all~~the relevant Directors ~~or~~and Officers, ~~determine~~ that any a D&O Claim shall ~~not be resolved~~be adjudicated by way of an alternative process and not adjudicated in

accordance with ~~this Claims Procedure and be unaffected by~~ the procedure set out in this Order, ~~and all such D&O Claims shall be treated as Excluded Claims.~~ In such case, the Timminco Entities shall notify the D&O Claimant of the decision to exclude the adjudication of the D&O Claim from the procedure set out in this Order.

CLAIMS OFFICERS

35. ~~31.~~ **THIS COURT ORDERS** that the Timminco Entities, with the consent of the Monitor and D&O Counsel, where applicable, or the Court may appoint Claims Officers for the purposes of the Claims Procedure described herein.

36. ~~32.~~ **THIS COURT ORDERS** that if a Claim is referred to a Claims Officer for resolution, the Claims Officer shall determine the validity, amount and classification of disputed Claims in accordance with this Claims Procedure Order and to the extent necessary may determine whether any Claim or part thereof constitutes an Excluded Claim. A Claims Officer shall determine all procedural matters which may arise in respect of his or her determination of these matters, including the manner in which any evidence may be adduced. A Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before a Claims Officer shall be paid.

37. ~~33.~~ **THIS COURT ORDERS** that, notwithstanding anything to the contrary herein, the Timminco Entities may at any time, in consultation with the Monitor, refer a Claim to a Claims Officer or to the Court for resolution, where in the Timminco Entities' view such a referral is preferable or necessary for the

resolution of the Claim, provided that in respect of a D&O Claim, the Timminco Entities shall also obtain the consent to such referral from the relevant Directors or Officers.

38. ~~34.~~ **THIS COURT ORDERS** that upon receipt of a Dispute Package or a D&O Dispute Package or referral for resolution pursuant to paragraph ~~33~~37 hereof, the Claims Officer shall schedule and conduct a hearing to determine the validity, amount and/or classification of the Claim and shall as soon as practicable thereafter notify the Timminco Entities, the Monitor, the D&O Counsel where applicable, and the Claimant or the D&O Claimant of his or her determination.

39. ~~35.~~ **THIS COURT ORDERS** that the Timminco Entities, the Claimant, or, in the case of a D&O Claim, the D&O Claimant, or any relevant Directors or Officers, may appeal the Claims Officer's determination to this Court within ten days of the date on which notification is deemed to have been received of the Claims Officer's determination of such Claim by serving upon the Timminco Entities, the Monitor, the Claimant or, in the case of a D&O Claim, the D&O Claimant, or any relevant Directors or Officers, as applicable, and filing with this Court a notice of motion returnable on a date to be fixed by this Court. If an appeal is not filed within such ten day period then the Claims Officer's determination shall, subject to a further order of the Court, be deemed to be final and binding and shall be a Proven Claim or Proven D&O Claim, as applicable.

40. ~~36.~~ **THIS COURT ORDERS** that the Timminco Entities shall pay the reasonable professional fees and disbursements of each Claims Officer in connection with such appointment as Claims Officer on presentation and acceptance of invoices from time to time. Each Claims Officer shall be entitled to a reasonable retainer against his or her fees and disbursements which shall

be paid by the Timminco Entities upon request. Any dispute as to fees and disbursements shall be resolved by the Court.

SET-OFF

41. ~~37.~~ **THIS COURT ORDERS** that the Timminco Entities may set off (whether by way of legal, equitable or contractual set-off) against the Claims of any Claimant, any claims of any nature whatsoever that any of the Timminco Entities may have against such Claimant arising prior to the Filing Date, provided that it satisfies the requirements for legal, equitable or contractual set-off as may be determined by the Court if there is any dispute between the Timminco Entities and the applicable Claimant, however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Timminco Entities of any such claim that the Timminco Entities may have against such Claimant.

42. **THIS COURT ORDERS** that the Timminco Entities may set off (whether by way of legal, equitable or contractual set-off) against payments or other distributions to be made to any Claimant, any claims of any nature whatsoever that any of the Timminco Entities may have against such Claimant arising after the Filing Date, provided that it satisfies the requirements for legal, equitable or contractual set-off as may be determined by the Court if there is any dispute between the Timminco Entities and the applicable Claimant, however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Timminco Entities of any such claim that the Timminco Entities may have against such Claimant.

NOTICE OF TRANSFEREES

43. ~~38.~~ **THIS COURT ORDERS** that if, after the Filing Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the

Monitor nor the Timminco Entities shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the relevant Timminco Entity and the Monitor in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the "Claimant" or "D&O Claimant" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to receipt and acknowledgment by the Timminco Entity and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any right of set-off to which the Timminco Entities may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the Timminco Entities.

44. ~~39.~~ **THIS COURT ORDERS** that if a Claimant or D&O Claimant or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Timminco Entities and the Monitor as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Claimant or D&O Claimant

may, by notice in writing delivered to the Monitor, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Claimant or D&O Claimant in accordance with the provisions of this Order.

45. ~~40.~~ **THIS COURT ORDERS** that the Timminco Entities and the Monitor are not under any obligation to give notice to any Person holding a security interest, lien or charge in, or a pledge or assignment by way of security in, a Claim, as applicable in respect of any Claim.

SUBMISSION OF INFORMATION AND SUPPORTING DOCUMENTATION BY PAPER COPY

46. ~~41.~~ **THIS COURT ORDERS** that any Claimant or D&O Claimant that is unwilling or unable to submit a Claim, information or dispute a notice of revision or disallowance via the FTI Claims Site may instead submit such information by paper copy to the Monitor using the Information Submission Form.

47. ~~42.~~ **THIS COURT ORDERS** that that the Monitor is authorized to input to the FTI Claims Site the information submitted using the Information Submission Form and that the Monitor shall have no liability for the information submitted other than as a result of gross negligence or wilful misconduct.

48. ~~43.~~ **THIS COURT ORDERS** that any Claimant or D&O Claimant that is unwilling or unable to submit supporting documentation via the FTI Claims Site may instead submit such supporting documentation by paper copy to the Monitor using the Supporting Documentation Submission Form.

49. ~~44.~~ **THIS COURT ORDERS** that the Monitor is authorized to upload to the FTI Claims Site the supporting documentation submitted using the Supporting Documentation Submission Form and that the Monitor shall have no liability for the information submitted other than as a result of gross negligence or wilful misconduct.

50. ~~45.~~ **THIS COURT ORDERS** that the Monitor is authorized to deliver any notification hereunder by paper copy.

SERVICE AND NOTICES

51. ~~46.~~ **THIS COURT ORDERS** any notice, notification or communication required to be delivered by the Monitor pursuant to this Order may be delivered via the FTI Claims Site or may be delivered by facsimile, email or electronic transmission, personal delivery, courier or prepaid mail to the address or number contained in the books and records of the Timminco Entities or as included in the information submitted by a Claimant in respect of its Claim.

52. ~~47.~~ **THIS COURT ORDERS** that any notice, notification, dispute, or communication required to be delivered by a Claimant pursuant to the terms of this Order must be delivered via the FTI Claims Site unless otherwise provided in this Order at paragraphs 46-50 above.

53. ~~48.~~ **THIS COURT ORDERS** that any paper copy of any notice, notification or communication required to be provided or delivered to the Monitor under this Claims Procedure Order will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email addressed to:

FTI Consulting Canada Inc.
In its capacity as Monitor of Timminco Limited and Bécancour Silicon

Inc.
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8

Attention: ● [Toni Vanderlaan](#)
Telephone: (416) 649-● [8125](#)
Facsimile: (416) 649-8101
Email: timminco@fticonsulting.com

54. ~~49.~~ **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, [notifications](#) or other communications sent by ordinary mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Claims Procedure Order.

55. **THIS COURT ORDERS** that any notice delivered to a Claimant or D&O Claimant via email through the FTI Claims Site or by facsimile transmission shall be deemed to have been received by such Claimant or D&O Claimant on the date and at the time that it was sent, as evidenced by the time and date stamp on the email, if sent prior to 5:00 p.m. (local time) on a Business Day, or if sent after 5:00 p.m. on a Business Day or on a non-Business Day, on the next following Business Day.

56. **THIS COURT ORDERS** that any notice delivered to a Claimant or D&O Claimant by mail, personal delivery or courier shall be deemed to have been received by such Claimant or D&O Claimant on the third Business Day after the notice was mailed, personally delivered or couriered.

57. ~~50.~~ **THIS COURT ORDERS** that in the event that this Claims Procedure Order is amended by further Order of the Court, the Timminco Entities or the Monitor may post such further Order on the Monitor's website and send an email to the service list created in the CCAA Proceedings and any Known Creditors affected by such amendment and such posting and mailing shall constitute adequate notice to Claimants and D&O Claimants of such amended claims procedure.

MISCELLANEOUS

58. ~~51.~~ **THIS COURT ORDERS** that notwithstanding any other provisions of this Claim Procedure Order, the solicitation by the Monitor or the Timminco Entities of Claims and the filing by any Claimant or D&O Claimant of any Claims shall not, for that reason only, grant any person any standing in these proceedings.

59. **THIS COURT ORDERS** that the forms of notice to be provided in accordance with this Claims Procedure Order shall constitute good and sufficient service and delivery of notice of this Claims Procedure Order, the Claims Bar Date and the Restructuring Claims Bar Date on all Persons who may be entitled to receive notice and who may assert a Claim and no other notice or service need be given or made and no other documents or material need be sent to or served upon any Person in respect of this Claims Procedure Order.

60. **THIS COURT ORDERS** that notwithstanding the terms of this Claims Procedure Order, the Monitor and the Timminco Entities may apply to this Court from time to time for directions from this Court with respect to the Claims Procedure Order, or for such further Order or Orders as either of them may consider necessary or desirable to amend, supplement or clarify the terms of this Claims Procedure Order.

61. ~~52.~~ **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial regulatory body of the United States and the states or other subdivisions of the United States and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Claims Procedure Order.

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

Court File No: [CV-12-9539-00CL](#)

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at [Toronto](#)

CLAIMS PROCEDURE ORDER

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Deleted cell	
Moved cell	
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